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ACTS

OF THE

LEGISLATURES OF THE PROVINCES

NOW COMPRISED IN THE DOMINION

AND OF

CANADA,

WHICH ARE OF A PUBLIC NATURE AND ARE NOT REPEALED BY THE REVISED
STATUTES OF CANADA FOR THE REASONS SET FORTH IN SCHEDULE B TO
THE SAID REVISED STATUTES.



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ACTS

OF THE LATE

PROVINCE OF CANADA

PRIOR TO THE

CONSOLIDATED STATUTES.

12 VIC., CHAP. 114.

An Act to consolidate the Laws relative to the Powers and Duties of the Trinity House of Quebec, and for other purposes.

[30th May, 1849.]

WHEREAS the provisions of the Acts and Ordinances Preamble.
now in force, relative to the powers and duties of the Trinity House of Quebec, to Pilots and Pilotage in and below the Harbour of Quebec, to the fund for decayed Pilots, their widows and children, and to other matters therein mentioned, have become obscure by repeated amendm^{ts}; and whereas experience hath shewn that they are insufficient for the purposes for which they were framed, and it is therefore expedient to repeal them, and to amend and consolidate the provisions therein contained, and to enact other provisions: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:—

Firstly.—That the Act of the Parliament of the Province of Lower Canada, passed in the forty-fifth year of the Reign of King George the Third, intituled, *An Act for the better* Certain Acts of Lower Canada repealed.

45 G. III, c. 12. *regulation of Pilots and Shipping in the Port of Quebec and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River St. Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children, is repealed ;*

47 G. III, c. 10. *Secondly.*—The Act of the said Parliament, passed in the forty-seventh year of the Reign of King George the Third, intituled: *An Act to amend an Act passed in the forty-fifth year of the Reign of His present Majesty, intituled, An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River St. Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children, is repealed ;*

51 G. III, c. 12. *Thirdly.*—The Act of the said Parliament, passed in the fifty-first year of the Reign of King George the Third, intituled, *An Act to amend an Act passed in the forty-fifth year of His Majesty's Reign, intituled : An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River St. Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children, is repealed ;*

52 G. III, c. 12. *Fourthly.*—The Act of the said Parliament, passed in the fifty-second year of the Reign of King George the Third, intituled: *An Act to amend an Act passed in the forty-fifth year of His Majesty's Reign, intituled : An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River St. Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children, is repealed ;*

59 G. III, c. 59, s. 3. *Fifthly.*—The third section of the Act of the said Parliament, passed in the fifty-ninth year of the Reign of King George the Third, intituled, *An Act to prevent accidents in the landing of Gunpowder from Ships or other vessels in the Harbour of Quebec, and to guard against the careless transporting of the same into the Powder Magazine, is repealed ;*

2 G. IV, c. 7. *Sixthly.*—The Act of the said Parliament, passed in the second year of the Reign of King George the Fourth, intituled, *An Act further to amend and extend the provisions of certain Acts therein mentioned, relating to Pilots and to the Navigation of the River St. Lawrence, and for other purposes therein specified, is repealed ;*

2 W. IV, c. 25. *Seventhly.*—The Act of the said Parliament passed in the fourth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to make provision for indemnifying Pilots while detained in Quarantine, is repealed ;*

4 V., c. 5. *Eighthly.*—The Ordinance of the Governor and Special Council of the Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, intituled, *An Ordinance to authorize the Corporation of the Trinity House of Quebec*

to borrow a certain sum of money, and for other purposes relative to the said Corporation, is repealed ;

Ninthly.—The Ordinance of the Governor and Special Council of the Province of Lower Canada, passed in the fourth year of the Reign of Her Majesty, intituled, *An Ordinance to empower the Corporation of the Trinity House of Quebec to sell and convey a certain portion of the Harbour of the Cul-de-Sac, in the City of Quebec, to the Corporation of the said City*, is repealed ;

Tenthly.—The Act of the Parliament of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to repeal and amend, in part, certain Acts and a certain Ordinance therein mentioned, and to extend the powers and increase the funds of the Corporation of the Trinity House of Quebec*, is repealed ;

Eleventhly.—So much of the Act of the said Parliament, passed in the eighth year of Her Majesty's Reign, intituled, *An Act to amend the Ordinances incorporating the City of Quebec*, as shall be inconsistent with this Act, is repealed ;

Twelfthly.—No Act or Ordinance or part of an Act or Ordinance repealed by any Act or Ordinance hereby repealed shall be revived by virtue of this Act.

II. And be it enacted—*First.*—That notwithstanding the repeal of the Acts and Ordinances, or parts of Acts or Ordinances before mentioned, all things done and all rights acquired in virtue of the said Acts or Ordinances shall be valid, all penalties incurred shall be recoverable, and all proceedings or matters commenced may be continued as if the Acts and Ordinances so repealed were still in force ;

Secondly.—The corporation of the Trinity House of Quebec shall not be dissolved by the passing of this Act, but shall continue, and the present Master, Deputy Master and Wardens of the said Corporation, and their successors in the same offices, appointed in the manner prescribed by this Act shall, without any new appointment, remain and continue to form and constitute a Body Politic, incorporated for the purposes of the present Act, under the name of *The Trinity House of Quebec*, which shall be one and the same Corporation with that heretofore existing under the name of the Master, Deputy Master and Wardens of *The Trinity House of Quebec* ; they shall continue to have perpetual succession, and a Common Seal, with power to change and renew it at pleasure ; they and their successors may plead and be impleaded in any Court of Record or Judicial Tribunal in this Province, in like manner as any other body corporate or party ; and may purchase and hold immovable property as sites for lighthouses, and for other the purposes of this Act ; and may purchase and hold any movable property whatsoever for like purposes, or for the other purposes of this Act ;

Part of 8 V.,
c. 60.

Acts, &c., re-
pealed by the
said Acts,
&c., not re-
vived.

Things done
and rights ac-
quired under
the repealed
Acts to re-
main valid.

Corporation
heretofore ex-
isting to con-
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Present officers continued.

Exception.

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Members not to be interested in contracts, &c.

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One to be a warden.

Qualification of the master.

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The latter office to be temporary.

Officers, &c., how appointed.

Officers to have fixed salaries, &c.

Application of moneys.

Thirdly.—The present Officers of the Trinity House of Quebec, and the other Functionaries of the said Corporation, shall retain their respective offices, as if this Act had not been passed; except that, after the passing hereof, the offices of Clerk and Treasurer shall be held by separate persons;

Fourthly.—The Trinity House of Quebec shall consist of a Master, Deputy Master and seven Wardens, who, with the Master and Deputy Master, shall have, in the manner herein prescribed, the right of giving their opinion, and voting upon all the affairs of the Corporation; but the office of Deputy Master shall cease from and after the resignation, removal or decease of the present Deputy Master, and the Trinity House of Quebec shall then consist of a Master and Eight Wardens;

Fifthly.—That no Member of the Trinity House of Quebec shall directly or indirectly contract with the said Corporation, nor be in any manner interested in or capable of deriving any interest under any contract made with the said Corporation by any other person; and any Member who shall have any contract with the Corporation at the time of the passing of this Act shall cease to be a member thereof;

Sixthly.—There shall be two Superintendents of Pilots, who shall be Branch Pilots, having practised as such for at least ten years. The senior in office shall be one of the Wardens of the Trinity House of Quebec; in his absence the other Superintendent of Pilots shall act as Warden, with the same power and functions;

Seventhly.—The Master of the Trinity House of Quebec shall be *ex-officio* the Principal of the Corporation;

Eighthly.—There shall be, as heretofore, a Harbour Master and an Assistant Harbour Master of the Harbour of Quebec; except that the office of Assistant Harbour Master shall cease on the resignation, removal or decease of the present incumbent;

Ninthly.—The Governor may appoint, by an Instrument under the Great Seal of the Province, all the Officers and other Functionaries required by the present Act, and may remove at his pleasure, collectively or separately, the Master, the Deputy Master, the Wardens, the Harbour Master, the Assistant Harbour Master, the Superintendents of Pilots, the Treasurer, the Clerk, the Bailiff, and the other Officers and Functionaries of the Corporation, and appoint others, except to the offices of Deputy Master of the Trinity House of Quebec, and of the Assistant Harbour Master, which offices shall be abolished on the removal of the incumbent.

III. And it be enacted—*First.*—That all the Officers of the Trinity House of Quebec shall receive fixed salaries out of the funds of the said Corporation; and, except moneys which under this Act go to the Pilot Fund, all fees and moneys received for any cause whatsoever, under this Act or any By-law made under it, shall go towards defraying

the expenses of the Corporation; *Secondly*.—The salary of the Master shall not exceed two hundred and fifty pounds a year; that of the present Harbour Master shall not exceed five hundred pounds a year; nor that of any of his successors four hundred pounds a year; that of the Assistant Harbour Master shall not exceed one hundred and eleven pounds, two shillings and two pence a year; that of each Superintendent of Pilots shall be one hundred and seventy-five pounds a year; that of the Treasurer shall be three hundred and fifty pounds a year; that of the present Clerk shall be three hundred pounds currency a year; but that of any of his successors shall not exceed two hundred and fifty pounds a year; the salary of the Bailiff shall not exceed one hundred pounds a year; the salaries which are not hereby fixed shall be fixed by the Governor within the limits hereby prescribed.

The salaries.

As to salaries not hereby fixed.

IV. And be it enacted, That all By-laws legally made by the Trinity House of Quebec before the passing of this Act shall, in so far as they contain nothing inconsistent with this Act, remain in force until repealed or amended, or until others shall be enacted in lieu thereof by the said corporation, but so much thereof as may be inconsistent with this Act is hereby repealed.

Former by-laws continued.

Exception.

V. And be it enacted, That the Master, Deputy Master and Wardens of the Trinity House of Quebec, or any three of them, may meet on such days and at such place as they may think proper, and may adjourn indefinitely or to a fixed day at pleasure; but they shall meet at least twice a week during the season of Navigation; their acts shall be valid provided three of them meet at their then usual place of sitting; at their meetings, the Master, or, in his absence, the Deputy Master, or if neither be present, the senior Warden, shall preside.

Meetings of the corporation.

Proviso.

Quorum.

President.

VI. And be it enacted, That at any such meeting the Master, Deputy Master and Wardens of the Trinity House of Quebec, or any three of them, may, in the manner provided in the last preceding section of this Act, make such By-laws and Orders as they may deem fitting and useful, provided the same be not contrary to the Maritime laws of Great Britain, to the Laws of this Province or to this Act; the objects for which such By-laws and Orders shall be made being the following:—

T. H. Q., may make by-laws for certain purposes.

Proviso.

First.—The internal management and government of the Corporation of the Trinity House of Quebec and of its property, movable and immovable;

Purposes for which by-laws may be made.

Secondly.—The security and the facility of the Navigation of the River St Lawrence, from the Basin of Portneuf, in the County of Portneuf, to the Eastern Limit of this Province, and of the navigable portions of the several rivers

which flow into this River or into the Gulf of St. Lawrence, within the Limits prescribed by this Act;

Thirdly.—The placing and removal of buoys and beacons;

Fourthly.—The erection of lighthouses, floating lights, lanterns and other signals;

Fifthly.—The dredging and clearing away of sands, rocks or other obstructions;

Sixthly.—The improvement and management of the Harbour of Quebec, and of the *Cul-de-Sac*;

Seventhly.—The anchoring, mooring, riding and fastening of vessels and craft of all kinds in the Harbour of Quebec, and the control of such vessels and craft whether in the stream, at a wharf or landing place, or hove down or hauled up for repair, in the Harbour of Quebec;

Eighthly.—The regulation and control of the use of lights and fire on board such vessels and craft in the *Cul-de-Sac*, and at the wharves in the said Harbour;

Ninthly.—The manner of boiling or melting pitch, tar, turpentine, resin or any other inflammable substance on the beaches in the said Harbour of Quebec or in the *Cul-de-Sac*;

Tenthly.—The appointment of the place or places in the said Harbour for the landing of Gunpowder from merchant vessels, and the route by which it may be carried to the Magazine;

Eleventhly.—The construction of wharves and of buildings thereon for the use of the Trinity House of Quebec;

Twelfthly.—The imposing, levying and receiving of wharfage or other dues to be paid by vessels and craft of all kinds entering the *Cul-de-Sac*, or undergoing repairs or wintering therein;

Thirteenthly.—The regulation and government of Pilots licensed as such for the Port of Quebec;

Fourteenthly.—The conduct of Pilots towards their Apprentices, and of Pilots' Apprentices towards their Masters;

Fifteenthly.—The qualification, instruction, service, supervision, control and examination of the Pilots' Apprentices.

Formalities
before any by-
law shall take
effect.

VII. And be it enacted, That no By-law made by the Trinity House of Quebec shall take effect, unless it be published twice a week during two weeks in English, in a Quebec newspaper published in English, and twice a week during two weeks in French, in a Quebec newspaper published in French, nor unless it be submitted to the Governor for His Sanction at least fifteen days after such publication.

Publication
of by-laws
after sanc-
tion.

VIII. And be it enacted, That every By-law sanctioned by the Governor, and certified by the Clerk of the Executive Council, shall, before it shall take effect, be inserted twice a week during two weeks in English, in a Quebec newspaper published in English, and in French in a Quebec newspaper published in French; and such By-laws shall be then printed in pamphlet form, and any person shall be

entitled to a copy on paying its fair value, and a copy of any By-law of the Trinity House of Quebec, certified by the Clerk under the Seal of the Corporation, shall be deemed authentic, and shall avail accordingly in all Courts of Justice in this Province.

Copies to be granted and their effect.

IX. And be it enacted, That the Trinity House of Quebec may, by any By-law made under this Act, impose penalties not exceeding ten pounds, on any person contravening such By-law, or any Order which the Corporation may lawfully make under this Act, or under any such By-law.

By-laws may impose penalties.

X. And be it enacted, That the Trinity House of Quebec shall continue to possess the property of Her Majesty situate in the Lower Town of Quebec, and known by the name of the *Cul-de-Sac* Harbour, whether covered or not covered by the flow or ebb of the tide, with its dependencies, and may exercise the rights thereunto belonging; but shall not dispossess or molest the persons possessing the wharves on the North side of the *Cul-de-Sac*, nor deprive them of the advantages, revenues and profits to which they are now entitled.

Cul-de-Sac to remain in possession of the T. H. Co.

XI. And be it enacted, That for the purposes of this Act, the Port of Quebec shall comprise all that part of the River St. Lawrence between the Basin of Portneuf, inclusively, and the Gulf of St. Lawrence, that part of the Gulf of St. Lawrence which is comprised within the Limits of this Province, or which borders upon its coasts, and that part of all rivers, waters, creeks, bays and coves within the said limits, where the tide ebbs and flows.

Port of Quebec defined.

XII. And be it enacted, That the Harbour of Quebec shall comprise that part of the River St. Lawrence between Saint Patrick's Hole, inclusively, to the *Cap-Rouge* River, inclusively, and that part of the Rivers Montmorency, St. Charles, Etchemin, Chaudière, Cap Rouge and others, where the tide ebbs and flows.

Harbour of Quebec defined.

XIII. And be it enacted, That for the purposes of this Act, the River St. Lawrence shall be held to enter the Gulf of St. Lawrence at an imaginary line drawn from the Eastern Anchorage ground of *Ile Barnabé* to the Eastern Anchorage ground under Cape Columbia, on the North shore; and vessels of every kind bound inwards shall be considered to be in the River St. Lawrence when they shall be above this imaginary line.

Limits of the river.

XIV. And be it enacted, That every Member of the Trinity House of Quebec, and every Officer thereof, shall, before entering upon the duties assigned to him by this Act, make oath before a Judge of the Court of Queen's Bench or one of the Prothonotaries thereof, that he will faithfully perform the duties of his office.

Members and officers of T. H. Co., to take an oath of office.

XV.—*Repealed by 36 V., c. 54.*

Pilots bran-
ched before this
Act.

XVI. And be it enacted, That every Pilot having a Branch before the passing of this Act, shall keep the same until he shall forfeit it for any of the causes herein mentioned.

XVII, XVIII and XIX.—*Repealed by 36 V., c. 54.*

T. H. Q., may
fix fees for
branches, &c.

XX. And be it enacted, That the Trinity House of Quebec may, by By-law, fix the fees to be received in suits brought before it, or for delivering and registering Pilots' Branches, or for any other cause whatsoever.

Qualifications
for obtaining
a branch.

XXI. And be it enacted, That no person shall obtain a Branch as Pilot, unless he proves that he has *bona fide* served a regular apprenticeship during seven consecutive years under a Branch Pilot authorized by license to have an apprentice as hereinafter mentioned and made four voyages to Europe; nor unless he has been examined and found sufficiently conversant with arithmetic, able to speak, read and write the English language and to calculate a ship's way on the chart, and to work a ship, and is perfectly well acquainted both with the North Channel of the River St. Lawrence between Quebec and *Ile du Bic* and with the South Channel of the said River between the same limits, and has conducted himself soberly and been of good moral conduct during his apprenticeship.

XXII.—*Repealed by 36 V., c. 54.*

T. H. Q., may
punish a pilot
losing or dam-
aging a vessel
under his
charge.

XXIII. And be it enacted, That the Trinity House of Quebec may fine, or according to the gravity of the offence suspend or deprive of his Branch, any Pilot who shall be the cause of the loss of a vessel under his charge, or shall be the means of its sustaining damage, or being delayed for a considerable time; and shall do so after complaint of the Master or owner of such vessel made to the Harbour Master, in in whose name the prosecution shall be brought; the fine shall not in any case exceed ten pounds, and the Pilot shall not be suspended for more than two years. The Trinity House of Quebec may in its discretion abridge the period for which a Pilot may have been suspended, and shall not deprive the Pilot of his Branch unless he shall have caused the accident through drunkenness or gross misconduct.

XXIV, XXV and XXVI.—*Repealed by 36 V., c. 54.*

Pilots sus-
pended not to
be deemed
branch pilots.

XXVII. And be it enacted, That a Pilot suspended from the exercise of his functions or deprived of his Branch, shall not be deemed to be a Branch Pilot so long as this suspension shall last, or his Branch shall not be restored to him.

XXVIII and XXIX.—*Repealed by 36 V., c. 54.*

XXX. And be it enacted, That any Master of a vessel promising to give or having given the charge of his vessel to a Branch Pilot, and afterwards refusing it or taking it from him, shall be obliged to pay to such Pilot the full pilotage on the vessel.

Master promising a vessel and not giving it.

XXXI. And be it enacted, That any Branch Pilot having charge of a vessel, who shall refuse to obey the orders or directions of the Harbour Master relative to the making fast, casting off, shifting or removal of such vessel, shall incur a penalty not exceeding ten pounds.

Pilot to obey the harbour master.

XXXII.—*Repealed by 36 V., c. 54.*

XXXIII. And be it enacted, That any person wishing to become a Pilot's Apprentice must know how to read and write, and must previously obtain permission from the Trinity House of Quebec. The agreement between the Apprentice and the Master shall be by a Notarial Indenture, whereof the latter shall, under a penalty not exceeding ten pounds, deposit an authentic copy in the hands of the Clerk of the Trinity House of Quebec within three months after the date of the Indenture.

Apprentices must obtain permission and enter into notarial agreement.

XXXIV. And be it enacted, That Apprentices under Indenture at the passing of this Act, shall, as regards their qualification and examination, be subject only to the By-laws and regulations in force at the date of their Indentures.

Apprentices now under indenture.

XXXV and XXXVI.—*Repealed by 36 V., c. 54.*

XXXVII. And be it enacted, That the rates of pilotage to which Branch Pilots shall be entitled, shall be those in Tables One and Two of the Schedule A. annexed to this Act; any Pilot who shall knowingly receive more or less than the legal value of his services and the Master of any vessel who shall offer less than the rates enumerated in the said Schedule, shall respectively incur a penalty not exceeding ten pounds.

Rates of pilotage to be those in the schedule.

XXXVIII.—*Repealed by 36 V., c. 54.*

XXXIX. And be it enacted, That any vessel arriving in the Harbour of Quebec, and not having performed quarantine at Grosse Ile, may proceed without stoppage to the ballast ground, or to any other place in the said Harbour.

Certain vessels may proceed at once to the ballast ground, &c.

XL, XLI and XLII.—*Repealed by 36 V., c. 54.*

XLIII. And be it enacted, That any Branch Pilot who shall bring back to the Harbour of Quebec a vessel having sustained damage or lost any anchor or cable, shall

Pilot bringing back a vessel after an accident.

be entitled to the pilotage downwards for the whole distance he may have gone, in accordance with the rates in the Schedule A. annexed to this Act, and further, to half pilotage for bringing the said vessel up.

XLIV, XLV, XLVI, XLVII, XLVIII, XLIX; L, LI, LII, LIII, LIV and LV.—*Repealed by 36 V., c. 54.*

Pilot fund to continue, &c.

LVI. And be it enacted, That the fund for the support and maintenance of decayed Pilots, their Widows and Children, shall continue as before the passing of this Act; and the said fund and all moneys forming part thereof, either before or after the passing hereof, shall continue to be vested in the Trinity House of Quebec, which shall administer the same conformably to this Act.

LVII, LVIII and LIX.—*Repealed by 36 V., c. 54.*

Superintendent to contribute to and share in the fund.

LX. And be it enacted, That the Superintendents of Pilots shall pay annually to the Treasurer of the Trinity House of Quebec, for the Pilot Fund, one shilling in the pound on the amount of their salary; and in the event of their resignation or removal as Superintendents of Pilots, they shall be Branch Pilots for all the purposes of this Act, and shall participate in the Pilot Fund in the same manner as if they had never ceased to act as Pilots; at their death, their Widows and Children shall have the same claim on the Pilot Fund as the Widows and Children of other Pilots.

LXI, LXII and LXIII.—*Repealed by 36 V., c. 54.*

T. H. Q., to decide differences between pilots and their apprentices.

LXIV. And be it enacted, That the Trinity House of Quebec, shall hear and finally determine every complaint and difference between Pilots and their Apprentices, and shall for this purpose have all the powers vested in Her Majesty's Justices of the Peace and the Courts of Quarter Sessions in the several Districts of this Province, with regard to Masters and their Apprentices generally, and may from time to time summon before it and examine any Pilot's Apprentice as to his progress in the business of a Pilot, and may impose a penalty not exceeding ten pounds on any Pilot who may have neglected the instruction of his Apprentice.

Apprentices found incompetent to serve for a further period.

LXV. And be it enacted, That when at the expiration of his apprenticeship a Pilot's Apprentice shall be found incompetent to practice as a Pilot, the Trinity House of Quebec may oblige him to serve for a time not exceeding twelve months over and above the period of apprenticeship hereby required, and may at each examination which such Pilot's Apprentice may undergo, oblige him to serve for a further period not exceeding twelve months, if it shall upon such examination deem him incompetent to practice as a Pilot.

LXVI. And be it enacted, That the Trinity House of Quebec may hear and determine: Other judicial powers of T. H. Q.

First. Any matter in dispute between a Branch Pilot and the Master or owner of a vessel, relative to any sum of money claimed for pilotage or other service of like nature;

Secondly. Any complaint against a Branch Pilot for negligence or misconduct in the performance of his duty, or for any contravention of this Act, or of any By-law or Order of the Trinity House of Quebec, legally made and valid under this Act;

Thirdly.—Any complaint for contravention of this Act, or of any by-law, or order of the Trinity House of Quebec, touching which there is no express provision, in any law regulating the powers and jurisdiction of the other judicial tribunals of this Province.

LXVII. And be it enacted, That every suit brought before the Trinity House of Quebec shall be by summons upon complaint and information; and upon proof of service of the summons on the party complained against, by the Bailiff of the Trinity House of Quebec, or Marshal of the Admiralty, or any other officer specially appointed to make such service, the Trinity House of Quebec shall hear and determine such suit, whether the defendant be present or absent; the summons shall issue under the seal of the Trinity House of Quebec and shall be signed by the Clerk of the said Corporation; a copy thereof may be served by any person legally authorized to make such service on shore, or on board of any vessel, not being one of Her Majesty's ships, to which the defendant may belong, either personally on the defendant, at his residence, or as the case may be, on one of the company of any vessel under his charge; there shall be at least forty-eight hours between the service of a summons and the hearing the complaint. Mode of bringing suits before the T. H. Q.

LXVIII. And be it enacted, That the limits of the jurisdiction of the Trinity House of Quebec, so far as regards the service or execution of any summons or writ, in the manner prescribed by this Act, shall be those of the District of Quebec. Limits of jurisdiction on shore.

LXIX. And be it enacted, That when the Trinity House of Quebec shall have rendered judgment against any party it may execute the same by means of a writ issued in its Name and under its Seal, signed by the Principal and countersigned by the Clerk of the said Corporation authorizing and requiring the Bailiff of the Trinity House of Quebec, or the Marshal of the Admiralty Court, or any other Officer named for that purpose, to levy by seizure and sale of the movables of the party against whom the judgment is rendered, the amount of such judgment with the costs of suit and of the seizure; and if it appears by the return of the Bailiff or other Officer How judgments of T. H. Q. shall be executed.

having the execution of the writ, that such movables are insufficient to satisfy the amount of the judgment and costs, the Trinity House of Quebec may immediately issue a Writ of arrest (observing the same formalities as in the former Writ) authorizing the Bailiff, Marshal, or other Officer named as aforesaid, to apprehend the person against whom such judgment was rendered and to convey him to the Common Gaol of the District of Quebec, there to remain for a period not exceeding one month, unless the amount of the judgment and costs be sooner paid.

Such judgments may be executed in the district of Montreal, &c.

LXX. And be it enacted, That when the party against whom a judgment has been rendered by the Trinity House of Quebec shall not have sufficient movables within the jurisdiction of the Corporation, but shall have movables within the jurisdiction of the Trinity House of Montreal, the Trinity House of Quebec may issue a Writ (observing the formalities aforesaid) and address it to the Bailiff of the Trinity House of Montreal, who, on receiving the same shall cause it to be endorsed by the Master of the Corporation last named, and shall then execute and return it to the Trinity House of Quebec; and if the movables be not sufficient to pay the amount of the judgment and costs, the Trinity House of Quebec shall issue a Writ of arrest, addressed to the Bailiff of the Trinity House of Montreal, who after having had it endorsed by the Master of that Corporation, shall apprehend the person against whom it is issued, and convey him to the Common Gaol of the District of Montreal or of Three Rivers, as the case may be, there to remain for a period not exceeding one month, unless the amount of the judgment and costs be sooner paid.

Warrants of arrest how executed.

LXXI. And be it enacted, That the Bailiff of the Trinity House of Quebec, or the Bailiff of the Trinity House of Montreal, or other Officer performing their duties, to whom a Writ of Execution or of arrest shall be addressed, may execute it on board of any vessel, not being one of Her Majesty's ships, within the limits of the Port of Quebec, or of the Port of Montreal, as the case may be.

Notice of sale under any writ of T.H.Q.

LXXII. And be it enacted, That whenever under a Writ issued by the Trinity House of Quebec, the Bailiff of that Corporation, or the Bailiff of the Trinity House of Montreal, shall have seized in the Harbour of Quebec or of Montreal, as the case may be, the movables of the party against whom the Trinity House of Quebec shall have rendered judgment as aforesaid, the sale of such movables shall be previously advertised at Quebec, or at Montreal, as the case may be, once in English, in a newspaper published in English, and once in French, in a newspaper published in French, and when the seizure shall be made in some other part of the Port of Quebec or of Montreal than in the Harbour of Que-

bec or of Montreal, as the case may be, the sale shall only take place after public notice thereof, given on a Sunday or Holiday, at least twenty-four hours previously at the door of the nearest church.

LXXIII. And be it enacted, That any Pilot condemned in any case to pay a penalty exceeding five pounds, or suspended or deprived of his Branch, may appeal to the Court of Queen's Bench in Superior Term; and any Pilot intending to appeal from a decision of the Trinity House of Quebec, shall give notice thereof in writing to the Clerk of the Corporation within fifteen days after such decision; and after having previously given sufficient security for the costs in appeal, shall proceed with the appeal at the Superior Term next following the said fifteen days; no judgment rendered against a Pilot by the Trinity House of Quebec from which he may appeal under this Act shall be executory until after the fifteen days next following the date of such judgment; and further, in case of appeal, the judgment of the Trinity House of Quebec, if affirmed, shall have effect and execution only after such affirmation, and if the Pilot be suspended, the term of suspension shall date from the day the judgment is affirmed.

Appeal given to pilot in certain cases.

LXXIV. And be it enacted, That every person not being a Pilot (whose case is elsewhere provided for by this Act), against whom the Trinity House of Quebec may have rendered judgment for a sum exceeding ten pounds, shall be entitled, provided he gives notice of his intention to the Clerk of the Corporation within four days after the date of such judgment, to appeal to the Court of Queen's Bench in Superior Term, on giving good and valid security to the party in whose favour the judgment was rendered for the amount thereof and of the costs of appeal and others, and shall proceed in the appeal at the then next Superior Term of the said Court.

Appeal given to persons not being pilots.

LXXV. And be it enacted, That the service of any summons upon a Pilot shall, if the Bailiff or person doing his duty cannot find the defendant, be sufficient if he serve a copy thereof on any other person either at the residence of the defendant or on board of his boat or other craft belonging to him, or on board of any vessel then under his charge.

Service of summons on a pilot, how made.

LXXVI. And be it enacted, That the Master of any vessel, believing that he has ground of complaint against his Pilot for bad conduct during the upward or downward passage of such vessel, shall, on pain of losing all right of complaint, inform the Harbour Master thereof within four days after his arrival in the Harbour of Quebec; and the right of complaint against a Pilot for any accident in the Harbour of Quebec or for any other cause, shall be lost to any Master of a vessel, who shall not submit his com-

Complaints against pilots to be made within a certain time.

plaint to the Harbour Master within forty-eight hours after such accident or other ground of complaint.

T. H. Q., may examine masters of vessel, pilots, &c., as to the progress of an apprentice.

LXXVII. And be it enacted, That the Trinity House of Quebec may summon before it the Master of any vessel in which a Pilot's Apprentice has made one or more voyages across the Atlantic, and interrogate him under oath respecting such voyages; it may, in like manner, summon before it any Pilot under whom an Apprentice has served, and question him under oath respecting such apprenticeship; and every Master of a vessel or Pilot who shall refuse to obey such summons or to answer the questions put to him respecting such Apprentice, shall, for such refusal, incur a penalty not exceeding twenty pounds, which he shall pay within forty-eight hours after judgment, on pain of imprisonment in the Common Gaol of the District of Quebec for a period not exceeding fifteen days.

Or the apprentice himself.

LXXVIII. And be it enacted, That the Trinity House of Quebec may examine under oath any Pilot's Apprentice respecting his apprenticeship.

T. H. Q., may summon witnesses, &c.

LXXIX. And be it enacted, That the Trinity House of Quebec may summon before it, as a witness, any person whose evidence may be required in any suit whatsoever, and may issue a Warrant of arrest against any person refusing or neglecting without just cause, to appear at the time appointed in such summons; it may also impose a fine, not exceeding ten pounds on any witness so refusing or neglecting to appear.

May commit witnesses in certain cases.

LXXX. And be it enacted, That the Trinity House of Quebec may issue a Warrant of arrest against any person appearing before it as witness, who, without reasonable cause shall refuse to answer, and may commit him to the Common Gaol of the District of Quebec for a period not exceeding fifteen days.

T. H. Q., may swear witnesses.

LXXXI. And be it enacted, That the Trinity House of Quebec, when sitting as a judicial tribunal, shall administer an oath to every person giving evidence before it.

May allow compensation to witnesses.

LXXXII. And be it enacted, That the Trinity House of Quebec may allow a fair compensation for travelling expenses and loss of time, to every person appearing before it as witness, and the sum so allowed shall form part of the costs in the suit.

May award costs, &c.

LXXXIII. And be it enacted, That the Trinity House of Quebec may in its discretion award costs of suit against the Plaintiff or defendant, or set them off against the sum awarded as it may think equitable.

LXXXIV. And be it enacted, That the Trinity House of Quebec, when sitting as a judicial tribunal, shall have like powers for the preservation of order during its sittings with any other Court of Justice in this Province.

Power to preserve order.

LXXXV. And be it enacted, That every Plaintiff or Defendant may appear and be heard before the Trinity House of Quebec by Counsel.

Parties may appear by counsel.

LXXXVI.—*Repealed by 14-15 V., c. 52.*

LXXXVII. And be it enacted, That the Collector or other Officer of Her Majesty's Customs at the Port of Quebec, or the Collector or other Officer of Her Majesty's Customs at the Port of Montreal, as the case may be, shall not grant a Clearance outwards from either Port to any vessel for any Port out of the Province, unless the Master of such vessel shews him a certificate from the Treasurer of the Trinity House of Quebec, or from any other person duly appointed to that effect by the Governor, proving that he has paid the Tonnage Dues imposed by the eighty-sixth Section of this Act, and the percentage on the pilotage required by the fifty-eighth and fifty-ninth Sections.

Clearance outwards not to be granted until dues are paid.

LXXXVIII. And be it enacted, That the person appointed under this Act by the Governor, to collect the percentage or Pilots' Contribution and the Tonnage Duty, shall on the first of each month pay over the amount by him received, to the Treasurer of the Trinity House of Quebec, delivering to him at the same time a detailed account of the moneys so collected.

Percentage to be paid over monthly.

LXXXIX. And be it enacted, That the Master of any vessel not requiring a Clearance (as a Transport or other vessel in Her Majesty's Service) who shall leave the Port of Quebec for a Port out of the Province, without having paid to the Treasurer of the Trinity House of Quebec, or to the person appointed by the Governor to receive the same, the Tonnage Dues and Percentage or Contribution of the Pilot to the Pilot Fund, shall incur a penalty not exceeding twenty-five pounds.

As to vessels not requiring clearance.

XC.—*Repealed by 14-15 V., c. 52.*

XCI. And be it enacted, That whenever the Trinity House of Quebec shall desire to acquire any land for the erection of lighthouses or for other purposes connected with the improvement of the River St. Lawrence, or whenever it shall be in possession of lands not belonging to it, but required for its use, and whenever in either case an amicable arrangement with the proprietor shall not take place, the price to be paid for such land shall be determined as follows: The Trinity House of Quebec and the proprietor shall

Proceedings when the T. H. Q., shall require to take lands.

Arbitration.

each appoint a disinterested arbitrator, and the two arbitrators shall name a third, also disinterested; the three arbitrators after having been sworn before one of the Judges of the Court of Queen's Bench of the District of Quebec, to fulfil their duty honestly and impartially, and having reciprocally given notice of the time and place of their meeting, shall determine the price to be paid by the Trinity House of Quebec for such land, and their decision shall be final.

Award to be final.

Judge to appoint an arbitrator in certain cases.

XCII. And be it enacted, That if the proprietor of the land shall, after having been notified by the Trinity House of Quebec, refuse or neglect to appoint an arbitrator to fix the price thereof, or if the two arbitrators appointed by the two parties interested shall not agree upon the third, one of the Judges of the Court of Queen's Bench shall name an arbitrator for the proprietor, or, as the case may be, the third arbitrator in case of the death of an arbitrator, or his refusal to act, the party who shall have appointed him, or the judge, as the case may be, may appoint another in his place, and the three arbitrators being respectively sworn by one of the Judges of the Court of Queen's Bench, shall decide finally on the price to be paid by the Trinity House of Quebec for the land.

Case of death or refusal to act.

T. H. Q., may take the said land on paying or depositing the price.

XCIII. And be it enacted, That when the arbitrators shall have determined the price of any land, the Trinity House of Quebec may take the same, and become proprietor thereof, by paying the price so fixed, either to the proprietor or into the hands of the Prothonotary of the Court of Queen's Bench for the District of Quebec, for the proprietor; and the price agreed upon or awarded for any land taken or kept by the Trinity House of Quebec shall be in the place and stead of the land, and all claims to or upon the land shall be converted into claims to or upon such price; and if the Trinity House of Quebec have reason to apprehend that any claim may exist to or upon the price, on the part of any third party, it may pay such price into the hands of the Prothonotary of the Court of Queen's Bench for the District of Quebec, filing, at the same time, a copy of the deed of purchase or of the award, and the Court, after having caused due notice to be given for calling in all claimants, shall make such order for the distribution of the price, and with regard to interest thereon and to costs as to law may appertain.

Compensation to represent the land and to be dealt with accordingly.

No purchase of land or vessel to be made without consent of the Governor in Council, &c.

XCIV. And be it enacted, That the Trinity House of Quebec shall not pay any sum of money, either for the purchase of a steamer, or other vessel, or of a new piece of land, or for the value of a piece of land already occupied but not owned by it, without the previous sanction of the Governor in Council; and such purchase money or indemnity shall be paid out of the moneys raised, and not specially appropriated by this Act, or out of any other sum of money

appropriated generally for the improvement of the River and Gulf of St. Lawrence.

XCV. And be it enacted, That any person running foul of and damaging any buoy, or mooring any vessel to any vessel placed in the river as a light ship, or to any buoy belonging to the Trinity House of Quebec, shall, over and above the payment of the expenses of replacing or repairing the same, incur a penalty not exceeding ten pounds.

Penalty for running foul of buoys, &c.

XCVI. And be it enacted, That the Trinity House of Quebec may borrow money to the amount of ten thousand pounds including the amount which may have been borrowed under the Ordinance of the Governor and Special Council of the Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to authorize the Corporation of the Trinity House of Quebec to borrow a certain sum of money, and for other purposes relative to the said Corporation*, which Ordinance is hereby repealed without prejudice to any right thereby vested in the lenders.

T. H. Q., may borrow money.
4 Vic., c. 5 cited.

XCVII. And be it enacted, That every sum of money borrowed under the said Ordinance or under this Act, and the interest thereon, shall be paid out of the funds of the Trinity House of Quebec, in preference to any other payment or charge whatsoever.

Loans to have a preference.

XCVIII.—*Repealed by 36 V., c. 55.*

XCIX.—*Repealed by 22 Vic., c. 31 (1858.)*

C. And be it enacted, That in no case shall a suit be brought for contravention of this Act or of any by-law of the Trinity House of Quebec, after twelve months' from the date of such contravention.

Limitation of suits.

CI. And be it enacted, That at any meeting of the Trinity House of Quebec, all questions shall be decided by the majority of the Members present.

Majority to determine questions.

CII. And be it enacted, That the persons and authorities required by this Act to administer an oath for any purpose, are respectively empowered to administer the same, and shall do so without remuneration.

Administering oaths.

CIII. And be it enacted, That every person who shall knowingly swear falsely in any case where by this Act an oath is authorized or required, shall be deemed guilty of wilful and corrupt perjury, and punishable accordingly.

False swearing.

CIV. And be it enacted, That the Trinity House of Quebec may purchase a steamboat or other vessel for its use.

T. H. Q., may buy a steamer.

CV. And be it enacted, That all suits for penalties before the Trinity House of Quebec may, except where it is otherwise

Suits. how brought.

wise herein specially provided, be brought in the name of the Harbour Master or of any other person.

Penalties,
how appro-
priated.

CVI. And be it enacted, That all pecuniary penalties paid by Pilots, under this Act or under the By-laws of the Trinity House of Quebec, shall form part of the Pilot Fund, and those paid by others than Pilots, and not hereby otherwise appropriated, shall form part of the funds of the Trinity House of Quebec.

Costs.

CVII. And be it enacted, That in any suit wherein the Harbour Master is the prosecutor and the successful party, he shall recover costs, which shall go to the funds of the Trinity House of Quebec, and when he is unsuccessful, costs shall be awarded against him and paid out of the said funds.

Other moneys
of T. H. Q.

CVIII. And be it enacted, That all moneys collected or borrowed by the Trinity House of Quebec, under this Act, and not hereby otherwise appropriated, shall be employed by the Corporation in improving the navigation of the River St. Lawrence, or for any other purpose consistent with this Act.

Account of
the pilot fund
to be publish-
ed.

CIX. And be it enacted, That the Trinity House of Quebec shall publish yearly, in the month of January (in English, in a Quebec newspaper published in English, and in French in a Quebec newspaper published in French), a general statement of the moneys received and paid, which form part of the Pilot Fund, the amount of pecuniary penalties paid to this Fund, the amount received for percentage or contribution of Pilots, the names of persons receiving pensions and aid out of the said Fund, and the amount received by each.

T. H. Q., to
lay statements
before the
Legislature.

CX. And be it enacted, That the Trinity House of Quebec shall lay before the Legislative Assembly of this Province, within fifteen days after the opening of each Session, a detailed statement of all sums received and paid, forming part of the Funds of the Corporation, or of the Pilots' Fund.

Governor
may require
accounts at
any time.

CXI. And be it enacted, That the Governor may, at any time and in any manner he may think proper, require from the Trinity House of Quebec an account of the moneys received and paid by it.

How pay-
ments shall be
made by the
Treasurer.

CXII. And be it enacted, That every payment made by the Treasurer of the Trinity House of Quebec, shall be made upon certificate of the Clerk of the Corporation.

Treasurer to
give security.

CXIII. And be it enacted, That the Treasurer of the Trinity House of Quebec shall, before entering on the duties of his office, give security to Her Majesty to such amount and in such manner as the Governor in Council shall from time to time direct.

CXIV. And be it enacted, That the Harbour Master, the Assistant Harbour Master, the Superintendents of Pilots, the Treasurer, the Clerk, the Bailiff and the other Officers and Functionaries of the Trinity House of Quebec, shall be subject to the By-laws and Orders of the Corporation, which shall define their respective duties and powers.

Officers of T. H. Q., to be subject to its orders.

CXV. And be it enacted, That the Clerk and the Treasurer of the Trinity House of Quebec may, in case of sickness or of absence, appoint Deputies who shall act in their place and shall have their powers and duties, such Deputies being subject to the approbation of the Trinity House of Quebec; but the Clerk and the Treasurer shall not in any case be relieved from the responsibility attached to their respective offices.

Clerk and Treasurer may appoint deputies.

CXVI. And be it enacted, That the Members and Officers of the Trinity House of Quebec shall not be liable to serve either as Jurors or as Assessors or Constables.

Exemptions in favor of T. H. Q.

CXVII. And be it enacted, That no Branch Pilot shall be liable to serve either as a Militia-man, or petit Juror or Constable.

And of pilot.

CXVIII. And be it enacted, That all public moneys received and paid under this Act, shall be accounted for to Her Majesty in such manner and form as Her Majesty shall direct.

Accounting clause.

CXIX. And be it enacted, That the words hereinafter mentioned, shall for the purposes of this Act be construed and shall mean as follows :—

Interpretation clause.

First. The Master :—The Master, Deputy Master, or as the case may be, the Senior Warden, in all cases where anything is required to be done by the Master, and generally where any officer is named, his Deputy or the person legally empowered to perform the duties of his office, shall be included;

Secondly. Vessel :—Any sailing vessel, steam vessel, schooner or other vessel or craft;

Thirdly. Master of a vessel :—The Captain, Master, Commander, or other Officer or person in charge of such vessel;

Fourthly. Oath :—An oath or an affirmation in cases where the law allows an affirmation in place of an oath, and false swearing shall include false affirmation.

CXX. And be it enacted, That this Act shall be deemed a public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and others.

Public Act.

SCHEDULE A.

TABLE I.—Table of Rates of Pilotage for and below the Harbour of Quebec.

From	To	For each foot of Draught of Water.			
		From the 1st May to the 10th November.	From the 10th November to the 19th November.	From the 19th November to the 1st March.	From the 1st March to the 1st May.
Bic Island, or any other place below the anchorage of the Brandy Pots, off Hare Island	Anchorage or mooring ground in the Basin or Harbour of Quebec.....	18s. 0d.	23s. 0d.	28s. 0d.	20s. 6d.
The anchorage ground at the Brandy Pots, off Hare Island, or any place above the said anchorage ground and below St. Roch's Point.....	do do ... $\frac{2}{3}$ of this sum.	$\frac{2}{3}$ of this sum.	$\frac{2}{3}$ of this sum.	$\frac{2}{3}$ of this sum.	$\frac{2}{3}$ of this sum.
St. Roch's Point, or any place above this Point and below the <i>Pointe-aux-Pins</i> , on Crane Island.....	do do ... $\frac{1}{3}$ do	$\frac{1}{3}$ do	$\frac{1}{3}$ do	$\frac{1}{3}$ do	$\frac{1}{3}$ do
<i>Pointe-aux-Pins</i> , on Crane Island, or any place below St. Patrick's Hole.....	do do ... $\frac{1}{4}$ do	$\frac{1}{4}$ do	$\frac{1}{4}$ do	$\frac{1}{4}$ do	$\frac{1}{4}$ do
The anchorage or mooring in the Basin or Harbour of Quebec	Bic Island, or the place where the Pilot shall be discharged in the river below Quebec.	15s. 9d.	20s. 9d.	25s. 9d.	18s. 3d.

Pilots taking charge of Vessels at St. Patrick's Hole, or about it, shall be entitled to no more than the sum allowed in Table II. for piloting vessels from one part of the Harbour to another

TABLE II.—Table of Rates of Pilotage for the Harbour of Quebec and below.

From	To	—
Any Wharf in the Harbour of Quebec, between <i>Pointe-à-Carcis</i> below, and Bréhaut's Wharf above, both inclusive	Any other Wharf within the said limits...	11s. 8d.
Any place in the Harbour of Quebec, not being a Wharf within the above mentioned limits ...	Any other place in the said Harbour, not being a Wharf within the said limits.....	23s. 4d.

SCHEDULE B.

Form of License

This is to certify that _____, Owner (or Master or Commander, as the case may be) of the _____ named the _____, has paid to the Treasurer of the Trinity House of Quebec the sum of _____, being at the rate of _____ pence per ton, according to the Register of the said _____ the _____ and the said _____ the _____ is, by virtue thereof, entitled to navigate the River St. Lawrence, within the limits of this Province, and to have the benefit of the lighthouses which the said Corporation hath erected to facilitate the navigation thereof during the navigation season of the year one thousand eight hundred _____.

Given in the City of Quebec, under the hand of the Master of the Trinity House of Quebec, and under the Seal of the said Corporation, this _____ day of _____, in the year of Our Lord _____, and in the year of Her Majesty's Reign.

[L. S.] (Signature.)

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



13-14 VIC., CHAP. 99.

An Act to oblige the Trinity House of Quebec to lay down Buoys to mark the Shoals in the North Channel of the River St. Lawrence, and to facilitate the traverse from Cap Tourmente to Isle-aux-Reaux.

[24th July, 1850.]

Preamble.

Certain buoys
to be laid
down by the
Quebec Trini-
ty House.

IN consideration of the rapid settlement and increasing population of the territory lying upon the banks of the Saguenay, and upon the north shore of the River St. Lawrence, from the Black River downwards as far as Pointe des Monts, and the urgent necessity of providing means for rendering the navigation in those parts less dangerous both for vessels from beyond seas and for the large number of schooners passing and repassing between the Saguenay and the Harbour of Quebec, along the north side of the said river from the Saguenay to Cap Tourmente, thence crossing to the south side by steering for Isle-aux-Reaux, and thence along the channel on the south side of the Island of Orleans to Quebec, and *vice versa*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for the purpose of marking the shoals in the said channel on the North side of the said River St. Lawrence, and of warning Navigators against the dangers of a wrong course, and of facilitating the traverse from the North to the South side, and *vice versa*, between Isle-aux-Reaux and Cap Tourmente, the Trinity House of Quebec shall, so soon as may be possible after the passing of this Act, and immediately upon the opening of the navigation in each subsequent year, place buoys in the same manner as buoys are placed in the Traverse opposite St. Roch's Point, and in other parts of the said River, namely, on the sand banks below the Island of Orleans, opposite the Parish of St. Joachim, and on the sand bank of Isle-aux-Reaux, and on that of Cap Brulé, and also a Buoy to mark

the Islets or rocks opposite La Gribane, another Buoy to mark the great Shoal to the north of the Isle-aux-Coudres, and another to the east of the Alouettes Shoal, at the mouth of the Saguenay.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



18 VIC., CHAP. 161.

An Act to increase the Salaries of Superintendents of Pilots, and of the Bailiff of the Trinity House of Quebec.

(Assented to 30th May, 1855.)

Preamble.

WHEREAS it is expedient to augment the salaries of the Superintendents of Pilots and Bailiff of the Trinity House of Quebec: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted, by the authority of the same, as follows:

Salaries of the said officers raised notwithstanding.
12 V., c. 114.

I. For and notwithstanding anything to the contrary in the third section of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to consolidate the laws relative to the powers and duties of the Trinity House of Quebec and for other purposes*, or in any other part of the said Act, or in any other Act, the salaries of each of the Superintendents of Pilots shall be two hundred and fifty pounds per annum, and that of the Bailiff of the Trinity House of Quebec shall be one hundred and fifty pounds per annum, to be paid in the same manner and out of the same fund as provided in the said Act with regard to the salaries therein mentioned; and any provision to the contrary in the said Act, or in any other, is hereby repealed.

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20 VIC., CHAP. 121.

An Act to amend the Act intituled, *An Act to consolidate the laws relative to the powers and duties of the Trinity House of Quebec and for other purposes.*

(Assented to 27th May, 1857.)

WHEREAS it is necessary to provide for the due execution of the duties of the Harbour Master of Quebec, in case of sickness or absence: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Preamble.

I. In the event of the sickness or absence from the City of Quebec of the Harbour Master of Quebec, it shall be the duty of the present First Superintendent of Pilots to perform the duties of the Harbour Master, and he shall have the same power and authority during such sickness or absence which the Harbour Master now has.

In absence of harbor master present first superintendent of pilots may act.

II. And in the event of the absence or sickness of the said present First Superintendent of Pilots, during the absence or sickness of the Harbour Master, the Trinity House of Quebec shall have the power, by a Minute in their Register, to name a Deputy Harbour Master with the same power and authority as the Harbour Master, during the said absence or sickness, and to remove such Deputy.

In his absence Trinity House to appoint.

III. After the removal from office of the present First Superintendent of Pilots, in all cases of absence or sickness of the Harbour Master of Quebec, the Trinity House of Quebec shall have power, by Minute entered in their Register, to appoint, during such sickness or absence, one or more Deputy Harbour Masters who shall have the same power and authority as the Harbour Master, and the Trinity House shall also have power to remove the said Deputy Harbour Masters.

And so always after removal of present first superintendent.



22 VIC., CHAP. 31.

An Act to extend the Powers of the Trinity House of Quebec.

[Assented to, 24th July, 1858.]

Preamble.

WHEREAS it is advisable further to encourage the removal of obstructions in the Harbour of Quebec: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Section 99 of 12 Vict., chap. 114, repealed.

I. The ninety-ninth section of the Act of the Legislature of the Province of Canada passed in the twelfth year of Her Majesty's Reign, chapter one hundred and fourteen, shall be and the same is hereby repealed.

Trinity House may advertise and sell effects found, and not claimed within a certain time.

II. When anything found in the River Saint Lawrence within the jurisdiction of the Trinity House of Quebec has not been claimed, the Harbour Master of Quebec may advertise it during four weeks in English and in French in two or more newspapers published at Quebec; and if within one calendar month after the date of the last of such publications the same be not claimed, the Harbour Master shall sell the same publicly, and after deducting the expenses of advertising, sale or otherwise, two-thirds of the proceeds of the sale shall revert to the finder, and the remaining third to the Trinity House of Quebec; Provided always, that it shall be in the discretion of the Trinity House of Quebec, by an Order to be duly made by them to that effect, to prolong the said delay of one month, if they should see fit, to any other period not exceeding six calendar months, so that there shall intervene not less than one nor more than six calendar months between the advertising the description of the effects found and the sale of the same in the event of their not being claimed.

Proviso: period may be extended to not more than six months.

Public Act.

III. This Act shall be deemed a public Act.

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22 VICT., CHAP 32.

An Act to provide for the improvement and management of the Harbour of Quebec.

[Assented to 24th July, 1858.]

WHEREAS it is expedient to provide for the improve- Preamble.
ment and management of the Harbour of Quebec;
Therefore Her Majesty, by and with the advice and consent
of the Legislative Council and Assembly of Canada, enacts
as follows :—

I. The Harbour of Quebec shall, for the purposes of this Act, comprise that part of the River St. Lawrence which lies between a line drawn from the west side of the mouth of the River Cap Rouge to the west side of the mouth of the River Chaudière, and a line drawn from the east side of the mouth of the River Montmorency to the east side of the cove called Indian Cove, on the south side of the said River St. Lawrence, together with that part of each of the said Rivers Cap Rouge, Chaudière and Montmorency, and of the Rivers St. Charles, Etchemin and Beauport, where the tide ebbs and flows. Harbour of Quebec, defined.

II. All land below the line of high water on the north side of the River St. Lawrence within the said limits, now belonging to Her Majesty, whether the same be or be not covered with water, the moneys arising from which are not by law appropriated or directed to be applied exclusively to any other purpose, together with all rents and sums of money now due or hereafter to become due to Her Majesty, and not already by law appropriated or directed to be applied exclusively to any other purpose, either for interest or principal, or in any other way, in respect of any land below the line of high water within the said limits heretofore granted by Her Majesty, whether the same be or be not covered with water, shall be vested in the Corporation hereinafter mentioned, in trust for the purposes of this Act; Provided always that every riparian and other proprietor of a deep water pier, or any other property within the said boundaries, shall continue to use and enjoy his property and mooring berths in front thereof, as he now uses the same, until the said Corporation shall have acquired the right, title and interest which any such proprietor may law- Certain Crown property, &c., in the harbour vested in trust.
Proviso: saving rights of proprietors.

fully have in and to any beach property or water lot within the said boundaries ; nor shall the rights of any person be abrogated or diminished by this Act in any manner whatever ; and provided also, that nothing herein contained shall in any way affect the lands or any parts of the lands constituting the estate of the late Order of Jesuits, appropriated to educational purposes by the Act nineteenth and twentieth Victoria, chapter fifty-four.

Proviso :
saving Jesuits'
estates.

Commission-
ers of the har-
bour to be ap-
pointed and
to be a cor-
poration.

Corporate
name and
powers.

Proviso: no
interested
party to be
commissioner
or secretary.

III. It shall be lawful for the Governor, by an instrument under the Great Seal of this Province, to constitute and appoint three persons to be, together with the Mayor of the City of Quebec for the time being, and the President of the Quebec Board of Trade for the time being, Commissioners for the improvement and management of the Harbour of Quebec, and from time to time to remove such persons or any or either of them, and to appoint others to be the successors of such as shall be removed, or shall die, or resign their trust ; and such Commissioners and the Survivor or Survivors of them and their Successors so from time to time constituted and appointed as aforesaid, together with the Mayor of the City of Quebec for the time being, and the President of the Quebec Board of Trade for the time being, or during his absence from the Province, the Vice-President of the Quebec Board of Trade, shall be and are hereby declared to be a Body Corporate and Politic in deed and in name by the name of the " Quebec Harbour Commissioners," with power to purchase and acquire, have, hold, enjoy, possess and retain immovable property for the purposes of this Act, and to build or acquire, hold and possess such Steamboats, Dredges, Scows and other Vessels as they may deem necessary for the efficient discharge of their duties under this Act, and to take out Registers for such Vessels in their Corporate name and capacity, and to dispose of the same, as well as of the said immovable property, as often as they may see fit to do so, and to do all other things necessary to carry out the provisions of this Act according to their true intent and spirit ; Provided always, that no such Commissioner or Secretary of the Corporation shall at any time be the owner of or have personally any direct interest in any property which it will be necessary to acquire for the purposes of this Act ;—if he be such owner or has such interest, he shall cease to be a Commissioner or officer (as the case may be)—and if the Mayor of the City of Quebec, or the President of the Board of Trade should at any time be such owner or should have such interest, it shall be the duty of the Corporation of the City of Quebec, or of the Board of Trade, as the case may require, to choose from among its members a person not being such owner and not having such interest, to be such Commissioner,—or if either of the three Commissioners appointed by the Governor is such owner or has such interest, it shall be lawful for the Gover-

nor to appoint in his stead some other person not being so disqualified.

IV The said Corporation of the Quebec Harbour Commissioners shall, for the purposes of this Act, have power and authority to make By-laws, not repugnant to the laws of this Province, or to the provisions of this Act, and to impose penalties under the same, not exceeding twenty pounds currency, or sixty days' imprisonment, against all persons who may infringe the same, and to revoke, alter and amend such By-laws as often as they may deem the same expedient; and By-laws made for any of the following purposes shall be held and deemed to be made for the purposes of this Act, that is to say:—

Power to make by-laws for certain purposes.

1. The direction, conduct and government of the said Corporation, and of its officers and servants, and the management and improvement of its property, real and personal;

Servants and property.

2. The prevention of injury to the property of the Corporation, and encroachment and incumbrances thereon, and the removal of the same; and also to prescribe where all vessels entering and loading at the Harbour of Quebec shall discharge their ballast;

Encroachments.

Ballast.

3. The collection of all dues and penalties imposed by or under the authority of this Act;

Collection of dues, &c.

4. And finally the doing of anything necessary to carry out the provisions of this Act according to their intent and spirit;

Carrying out this Act.

5. Provided always, that no By-law made by the said Corporation shall have any force or effect until after it has been sanctioned by the Governor and published in the *Canada Gazette*;

Proviso: by-laws to be published.

6. And provided also, that the improvements to be made under this Act, and the property which may be acquired thereunder, shall be made or acquired on the north side of the River St. Lawrence only.

Proviso: improvements to be on north side only.

V. Copies of any such By-laws certified by the Secretary under the seal of the said Corporation, shall be admitted as full and sufficient evidence of the same in all Courts of Law and Equity in Canada.

Certified copies to be evidence.

VI. It shall be lawful for the Governor from time to time to appoint one of the said Commissioners to be Chairman of the said Corporation, and to allow such Chairman such compensation or salary as may be deemed fitting; and the said Corporation shall appoint a Secretary-Treasurer thereto, and shall fix his compensation, and shall require and take from such Secretary-Treasurer such security for the due and faithful performance of his duties as may be deemed necessary; and all such other officers, assistants and servants as may be required by the said Corporation for the purposes of this Act, shall be appointed by the said

Appointment of chairman and of secretary-treasurer and other officers of corporation

Corporation, who shall allow them such compensation or salaries as may be necessary; Provided always, that such Secretary-Treasurer and such compensation shall be approved of by the Governor General.

Members, &c., of corporation exempt as jurors, &c. VII. The members, officers and servants of the said Corporation shall be exempt from serving on any Juries or inquests whatsoever, or as Assessors or Constables.

Power to borrow money for works in the harbor. VIII. For the purpose of purchasing wharves and extending and improving the same, and constructing other accommodation for vessels in the said Harbour, or for any or either of the said purposes, it shall be lawful for the said Corporation to borrow in such sums and for such number of years and at such rates of interest, not exceeding eight per cent. per annum, as may be found expedient, any sum or sums of money not exceeding in the whole the sum of three hundred thousand pounds sterling, at par, in sterling or in currency, and either in this Province or elsewhere, and to expend the same in such purchases and works in the said Harbour, in the manner deemed by them to be best calculated to promote the commerce and interests of the Port of Quebec; and the said Corporation is hereby authorized to issue under the hands of three of the said Commissioners, and the Seal of the Corporation debentures or bonds, to be countersigned by the Secretary of the said Corporation, for the sum or sums so to be borrowed, and to make the same payable, at such time and times as may be agreed on, to the bearer thereof, either within this Province or at any place or places without this Province, and either in currency or in sterling, with interest payable semi-annually, and with coupons for such interest annexed and signed by one of the said Harbour Commissioners, and countersigned by the said Secretary, which coupons shall be payable to bearer at the time when the said interest shall be made payable; and such debentures or bonds may be recalled and other debentures or bonds issued in their stead as aforesaid, with coupons; and the said sum and sums so borrowed shall be paid out of the revenues of the Harbour.

And to issue debentures.

Interest to be paid out of revenue of harbor. IX. The interest upon the sums of money which may be borrowed under the next preceding section shall be paid out of the revenue arising from the dues, tolls, duties, rates and penalties imposed by or under this Act for and on account of the said Harbour; and the lawful charges upon the said revenues shall be as follows and in the following order, that is to say:—

1. The payment of all expenses incurred in the collection of the same, and other indispensable charges;
2. The defraying of the expenses attendant on keeping the wharves and other works and property of the Corporation of the Harbour, in a thorough state of repair;

3. The payment of interest due on all sums of money borrowed under this Act without priority or preference ; Payment of interest.

4. The paying off of the principal of temporary loans ; Sinking fund.
and for this purpose the said Corporation is hereby required to set apart yearly two per cent. on the amount of such loans, as a sinking fund, to secure the liquidation thereof.

X. The said Commissioners shall keep separate accounts of all moneys borrowed, received and expended by them under the authority of this Act, and shall account for the same annually to the Governor, in such manner and form as he may see fit to direct ; but the Provincial Guarantee shall not be given for the payment of either principal or interest of any sum borrowed under this Act, nor shall the Province be in any way responsible therefor. Certain accounts to be kept.
No provincial guarantee.

XI. All Corporations and persons whatever, and all *grévés de substitution*, Tutors, Curators, Executors and Administrators, and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, or other persons, who are seized or possessed of or interested in any wharf or other immovable property required by the said Commissioners for the purposes of this Act, may sell and convey unto the said Commissioners all or any part thereof ; and any contract, agreement, sale or conveyance made in pursuance of the power hereby given, shall be valid and effectual, any law, statute, usage or custom to the contrary notwithstanding, and such Corporation or person so conveying as aforesaid is hereby indemnified for what it or he may respectively do by virtue or in pursuance of this Act. Corporations, &c., empowered to sell to harbour commissioners.

XII. All Corporations or persons owning any wharf or other immovable property required by the said Commissioners for the purposes of this Act, who cannot in common course of law sell or alienate the same, shall exact a fixed annual rent as an equivalent for the same, instead of a principal sum ; and if the amount of the rent be not fixed by voluntary agreement or compromise, it shall be fixed in the manner hereinafter prescribed ; and all proceedings shall in that case be regulated as hereinafter prescribed ; and for the payment of any such annual rent or of any other annual rent agreed upon or ascertained, and to be paid for the purchase of any wharf or other immovable property required by the said Commissioners for the purposes of this Act, or for any part of the purchase money of any such wharf or other immovable property which the vendor shall agree to leave unpaid, such wharf or other immovable property shall be and is hereby made liable and chargeable in preference to all other claims and demands thereon whatsoever, the deed creating such charge and liability being duly registered Corporations or persons who cannot receive principal sums to sell for fixed annual rents.

Deeds to be registered by the commissioners.

in the Registry Office for the Registration Division of Quebec; and every such deed shall be so registered at full length at the diligence, costs and charges of the said Commissioners.

Mode of settling price of lands, &c., in case of not being able to settle it by mutual agreement.

XIII. Whenever the said Commissioners cannot agree with the proprietor or proprietors, or some one or more of them as aforesaid, of any wharf or other real property required by them for the purposes of this Act, as to the amount of the price or annual or other rent to be paid for the same, such amount shall be determined as follows: The said Commissioners and the proprietor or proprietors shall each appoint a disinterested arbitrator, and the two arbitrators shall name a third, also disinterested, and the three arbitrators, after being sworn by or before any Judge or Justice of the Peace to fulfil their duty honestly and impartially, and having given each other notice of the time and place of their meeting, shall determine such amount, and their decision or that of any two of them shall be final, and if such proprietor or proprietors, after being notified and thereunto required by the Commissioners, refuse or neglect to appoint an arbitrator as aforesaid, or if the two arbitrators appointed by the two parties interested or by the Commissioners and the Judge aforesaid, do not agree upon a third arbitrator, then one of the Judges of the Superior Court for Lower Canada shall name an arbitrator for the proprietor or proprietors, or a third arbitrator as the case may require; and in case of the death of an arbitrator, or his refusal to act, the party who appointed him, or the Judge (as the case may be) may appoint another in his place.

Arbitration and award.

Commissioners to become proprietors on payment or deposit of price.

XIV. When the amount of the price to be paid for any wharf or other immovable property required as aforesaid, has been agreed upon or determined by arbitration as aforesaid, the said Commissioners may take the same and become proprietors thereof, by paying such price either to the proprietor or proprietors or into the hands of the Prothonotary of the Superior Court at Quebec, for him or them, and the price agreed upon or determined to be paid for any wharf or other immovable property taken by the said Commissioners, shall be in the place and stead of the land, and all claims to or upon the land shall be converted into claims to or upon such price; and if the Commissioners have reason to apprehend that any claims may exist to or upon the price, on the part of any third party, they may pay such price into the hands of the Prothonotary of the Superior Court at Quebec, filing at the same time a copy of the deed of purchase or of the award, and the Court after having caused due notice to be given for the calling in of all claimants, shall make such order for the distribution of the price

Provision if they apprehend charge on the property.

as well as of the interest thereof, and as to costs, as to law may appertain.

XV. It shall be lawful for the said Commissioners to levy upon all vessels moored or fastened to, or lying at or in, any of their piers, wharves or slips, and upon all goods landed or shipped, carried or deposited thereon, such moorage or wharfage rates and such other tolls, dues and duties, as they may, from time to time, fix and establish, not exceeding those in the Schedules hereunto annexed; and the said rates and dues shall be levied as follows:

Power to levy moorage and wharfage rates on vessels and goods.

1. On sea-going vessels.—The moorage rates thereon shall be levied from the master or person in charge thereof; and the wharfage rates of goods landed or shipped shall be levied from the consignee, shipper, owner or agent thereof;

On sea-going vessels.

2. On all other vessels.—The moorage rates thereon, as well as the wharfage rates upon the cargoes, shall be paid by the master or person in charge thereof, saving to him such recourse as he may have by law against any other person, for the recovery of the sum so paid;

On other vessels.

3. Provided however, that it shall be lawful for the said Commissioners to demand and recover the said wharfage rates from the owners or consignees of such vessels, or from the owners, consignees or agents of ships, or shippers of such cargoes, if they see fit to do so; and in the event of goods lying unclaimed on the wharves, piers or slips of the said Commissioners for the period of ninety days, such goods may be sold by public auction after three advertisements thereof shall have been published in any newspaper in the City of Quebec, and the said Commissioners shall account for the proceeds thereof to the owner thereof on demand, first deducting their lawful charges thereon; and if such goods be of a perishable nature they may be sold within a shorter period, provided cause for such sale be shown by affidavit before any Justice of the Peace of the District of Quebec, and an order for such sale procured from such Justice, who is hereby authorized to grant the same.

Proviso: as to recovery of dues; unclaimed goods may be sold if such dues remain unpaid after a certain time.

XVI. In case of non-payment of the said dues or rates, or part thereof, or any other charge which, under this Act, the said Commissioners may lawfully make, it shall be lawful for the said Commissioners to seize forthwith, before judgment, any vessel or goods whatsoever, upon which such dues or other charges may be owing, and to detain the same at the risk, cost and charges of the owner, until the sum due, and the costs and charges incurred for the seizure and detention of the same, be paid in full; and in the event of such rates, dues or other charges remaining due for forty days after such seizure, such vessel or goods may be sold by the said Commissioners, by public auction, after the publication, in any newspaper in the said City of Quebec, of three advertisements of such sale; and the said Commis-

Power to seize and sell vessels or goods in case of non-payment.

sioners shall thereafter, on demand, account to the owner of such vessel or goods for the proceeds of such sale, first deducting the rates or dues due, and all other legal charges.

Certain reports may be exacted from masters of vessels.

Proviso.

Proviso.

XVII. It shall be lawful for the said Commissioners to require from the master or person in charge of every vessel coming to any of their wharves, piers or slips, a report in writing, signed and certified by him, of his vessel's cargo inwards, and her draft of water, such report to be made before he shall break bulk; also of her outward cargo and draft of water before his vessel shall leave the same, and such other particulars as may be necessary to carry out the provisions of this Act; and in case of refusal or neglect to make such reports or any of them, it shall be lawful for the said Commissioners to seize and detain such vessel at the risk, cost and charges of the master, owner or person in charge thereof, until the aforesaid requirements are complied with: Provided always, that nothing herein contained shall prevent the said Commissioners from making such mutual agreement with the masters, owners or agents of steamboats and other vessels, with respect to making such reports, and with respect to the payment of all tonnage, wharfage and other dues as may be considered expedient; and provided also, that nothing herein contained shall be construed to prevent the said Commissioners from commuting with such masters, owners or agents of steamboats and other vessels for all rents and dues accruing thereon, on such terms and conditions, and for such sum or sums of money, and for such periods as to the said Commissioners may seem fit and expedient.

Collector of customs at Quebec may be required to collect rates.

XVIII. It shall be lawful for the said Commissioners to require the Collector of Customs at the Port of Quebec, to collect such portions of the aforesaid rates and dues on their behalf, as they may deem expedient for the convenience of the trade of the Harbour to collect through him, and to allow him therefor a commission not exceeding one-half per cent.

If dues, &c., are insufficient they may be raised by the Governor.

XIX. If all the imposts mentioned in this Act should prove insufficient to enable the said Commissioners to meet the charges upon their revenue as provided by this Act, it shall then be lawful for the Governor, on report of the Commissioners to that effect, to add such percentage to all dues whatsoever imposed by this Act, as will in his judgment afford the said Commissioners a sufficient revenue for the said purposes.

Recovery of dues and penalties.

XX. All dues and penalties imposed by this Act, or by any By-law made under the authority thereof, and all rates, dues and duties authorized to be levied under and by virtue of this Act, may be recovered by civil action or pro-

ceeding at the suit of the said Commissioners before any Magistrate or Magistrates in any place in this Province, in a summary manner, and on the oath of one credible witness, and any member of the said Corporation, or any of its officers or servants may be such witness.

XXI. If any injury be done to any of the wharves, slips, piers or other works in the said Harbour, belonging to the said Commissioners, by any vessel, or by the carelessness or wantonness of the crew thereof, while in the execution of their duty, or of the orders of their superior officers, it shall be lawful for the said Commissioners to seize such vessel and detain her until the injury so done has been repaired by the master or crew, or until security has been given by the said master to pay such amount for the injury and costs as may be awarded in any suit which may be brought against him for the same, and he is hereby declared to be liable to the said Commissioners for any such injury.

Vessels may be seized for injury done to wharves. &c.

XXII. If any person or persons shall, wilfully and maliciously, by any means or in any manner, break, damage or destroy the piers, slips, wharves or other works to be purchased or constructed under this Act, or any of them, such person or persons shall be adjudged guilty of felony, and the Court, by and before whom such person shall be tried and convicted, shall have the power and authority to cause such persons to be punished according to the laws in force in this Province for the punishment of felony, and to sentence any person or persons so convicted to an imprisonment in the Provincial Penitentiary of a duration not less than two years, nor more than five years.

Maliciously injuring piers, &c., to be felony.

XXIII. If any person or persons shall, in any manner or way whatever, obstruct, hinder or interrupt any of the officers, clerks or servants of the Commissioners in the execution of their duties, such person or persons shall, for every such offence, incur a penalty not less than five pounds, nor exceeding ten pounds, to be recovered as hereinbefore provided; and one-half of all penalties imposed by or under the authority of this Act shall be paid to the said Commissioners and the other half thereof into the hands of the Receiver General, to be applied to the public use of this Province.

Penalty for obstructing officers of the commissioners in the execution of their duties.

XXIV. The seizure of any vessel which, under and by virtue of this Act, the said Commissioners may make for the purpose of enforcing the provisions thereof, may be effected upon the order of any Magistrate for the District of Quebec, which order such Magistrate is hereby authorized and required to give, upon the application of the said Commissioners or their authorized agent, on the institution of any action before such Magistrate, for any cause render-

How seizure of vessel to be effected.

ing such vessel liable to seizure, and on the affidavit of any one credible person that the cause of such action alleged in the declaration, complaint or information before such Magistrate, is well founded in fact; and such order may and shall be executed by any constable, bailiff or other person whom the said Commissioners may choose to entrust with the execution thereof; and the said constable, bailiff or other person is hereby authorized and empowered to take all necessary means, and to demand all necessary aid, to enable him to execute the same.

Valuation of goods to be made according to the Act 12 V., c. 1, as amended by 16 V., c. 85.

XXV. The valuation of goods on which *ad valorem* rates of wharfage are imposed by this Act shall be made according to the provisions contained in the Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to amend the law relative to duties of Customs*, as amended by the Act passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act further to amend the laws relating to the duties of Customs*; and the provisions of the said Act so amended shall, for the purposes of such valuation of goods, be held and considered to form part of this Act, as if the said provisions were actually embodied herein; and it shall be the duty of the Collector of Customs at Quebec to direct the Appraiser at the said Port to attend and make such valuation at any place and time needful, on application being made to him to that effect by the said Commissioners or their authorized agent; and the said Appraiser shall act herein without taking any new oath of office for the purpose.

Interpretation clause.

XXVI. In this Act all words importing the singular number, or the masculine gender only, shall extend to more than one person, party or thing, and to females as well as males, unless the context shall be inconsistent to such construction; and whenever power is by this Act given to do anything, power shall be intended also to do all things which may be necessary to the doing of such things; and generally all words and clauses herein, shall receive such liberal and fair construction as will best answer the carrying into effect of this Act according to its true intent and spirit: The words "By-laws," "Vessels," "Goods" and "Dues," in the provisions of this Act, shall severally be construed to mean, and shall mean, as follows: The word "By-laws" shall include and mean all By-laws, rules, orders and regulations made by the said Commissioners; the words "Vessel" or "Vessels" shall mean and include all ships, vessels, boats, barges, steamboats, scows, rafts and floating craft whatsoever; the word "Goods" shall mean and include all merchandize, produce, animals articles and things whatsoever landed from a vessel or deposited on the wharves for the purpose of being shipped or otherwise; and the word "Dues," shall mean and

include all rates, tolls, duties and dues whatsoever imposed by this Act.

XXVII. Nothing herein contained shall affect or be construed to affect in any manner or way whatsoever the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as herein mentioned. Saving of Her Majesty's rights, &c.

XXVIII. This Act shall be deemed a Public Act, and as such judicially noticed by all Judges, Justices of the Peace and others whom it may concern, without being specially pleaded. Public Act.

TARIFF.

TOLLS, Rates, Duties and Dues to be levied in the Harbour of Quebec, under and by virtue of this Act.

SCHEDULE A.

Tariff of Maximum Rates.

FOR MOORING.

On steamboats, per ton of their burden per Register, for each day of twenty-four hours they remain, reckoned from the hour of their arrival to that of their departure..... 1d.
On all other vessels, per ton and per day as aforesaid ½d.

FOR DISCHARGING AND LOADING.

By Steam Crane or other Machinery.	Discharging at Wharf.	Loading from Wharf.	Wharfage, that is, use of Wharf while goods are being landed or loaded.	Discharging or loading, to include Wharfage & Moorage of Vessel and all expenses.
	s. d.	s. d.	s. d.	s. d.
Flour or other produce reduced to weight of Flour, per barrel.....	0 1	0 1	0 0½	0 3
Grain, Salt, &c, per bushel.....	0 0½	0 0½	0 0½	0 1
Merchandize and other goods, per ton of 2,000 lbs.	1 3	1 3	0 6	2 6

SCHEDULE B.

Goods, Wares, Merchandize, Animals and Things, on which
the Rates affixed to each shall be levied :

	s.	d.
Flour and Meal, Fish, Beef, Pork, and other Meats, Tar, Pitch and Rosin, per barrel or per two hun- dred pounds.....	1	
Puncheon Packs or Shooks, Empty Puncheons or Pipes, Canoes, Carts, Burr Stones and Animals undescribed, each.....	1	
Tobacco Clay Pipes, Corks and Matches, per twelve gross.....	1	
Spades, Shovels and Axes, per dozen.....	1	
Baskets, Buckets, Pails and Corn Brooms, per dozen..	1	
Window Glass, per one hundred feet.....	1	
Canada Plates, Tin Plates, Lemons and Oranges, per box	1	
Poultry or Game, per dozen.....	1	
Untanned Skins (undescribed), per dozen.....	1	
Apples and other Green Fruit, per minot.....	$\frac{1}{4}$	
Potatoes, Onions and other Green Vegetables per minot	$\frac{1}{4}$	
Oysters and other Shell-fish, per minot.....	$\frac{1}{2}$	
Casks (empty, undescribed), each.....	$\frac{1}{2}$	
Corn Whisks or Dusters, per dozen.....	$\frac{1}{2}$	
Laths and Shingles, per thousand.....	2	
Eggs, per thousand.....	2	
Boats (undescribed), each.....	2	
Vehicles (undescribed), each.....	2	
Neat Cattle and Horses, each.....	2	
Hoop Poles, per hundred pieces.....	3	
Firewood and Bark, per cord.....	3	
Empty Bottles, per gross	3	
Hides, per dozen.....	3	
Ashes (Pot or Pearl), per barrel.....	4	
Cinders and Coke, per chaldron.....	6	
Coal, per chaldron.....	1	0
Clay, Sand, Lime and Ballast, per ton.....	6	
Timber, per hundred cubic feet.....	6	
Sawed Lumber of every kind, per thousand feet, board measure.....	2	6
Lathwood, per cord.....	2	0
Batteaux and Carriages, each.....	2	6
Buffalo Skins, per dozen.....	6	
Earthenware (loose), per hundred pieces.....	9	
Handspikes, Oars and Billets, per hundred pieces....	9	
Barrel Staves, per mille	2	6
Hay and Straw, per hundred bundles.....	9	
Marble, per hundred cubic feet.....	2	6
Stone (except ballast), per hundred cubic feet.....	2	6
Puncheon Staves, per mille.....	2	6

	s.	d.
Empty Barrels, per hundred.....	1	3
Empty Boxes, per hundred.....	1	0
Grain, Seeds, Indian Corn, Pulse, Malt and Salt, per hundred minots.....	1	3
Railway Sleepers, per hundred pieces.....	5	0
Bricks, Tiles and Slates for roofing, per thousand.....	4	0
Pipes, Staves (Standard), per mille.....	10	0

SCHEDULE C.

Goods on which there shall be levied a rate of nine pence per one thousand pounds gross weight :—

Arrowroot, Barley, Pot or Pearl, Batting, Biscuits, Bread, Butter, Blue, Brimstone, Cheese, Crackers, Coffee, Cocoa, Chocolate, Candles, Cork unmanufactured, Cordage, Cotton Wool, Flax, Feathers, Fruit dried, Glue, Grease, Gunpowder, Ginger, Hemp, Hops, Honey, Junk, Leather, Lard, Lamp-black, Nuts of all kinds, Oakum, Oil-Cake, Ochre, Paints, Putty, Rice, Rags, Rope, Sugar raw or refined, Soap, Starch, Spices, Sago, Saleratus, Salts, Snuffs, Saltpetre, Sulphur, Teas, Tobacco, Tow, Tallow, Wadding, Wool, Wire, Wax, Wrapping Paper, Whetstones.

SCHEDULE D.

Goods on which there shall be levied a rate of one shilling and three pence per ton, gross weight :—

Anchors, Anvils, Alum, Chains, Metals of all kinds in Pigs, Bar, Bolts, Rods or Sheets, Hollow iron ware, Plough-moulds, Nails, Spikes, Shot, Stoves, Ores of all kinds, Chalk, Cement, Gypsum, Plaster of Paris, Whiting, Copperas, Grindstones, Millstones, Dye woods, Soda-Ash, Raft Gear, Bran, Shorts, Luggage, Bones, Hoofs, Horns.

SCHEDULE E.

Goods on which there shall be levied a rate of one shilling per one hundred gallons thereof :—

All Liquors, Wines, Oils and Fluids whatsoever, in wood or other packages, except bottles.

SCHEDULE F.

Goods on which there shall be levied a rate of nine pence per ton measurement of forty cubic feet :

Earthenware, Stoneware, Chinaware and Glassware in packages.

SCHEDULE G.

On all Goods, Wares and Merchandize whatsoever not otherwise classed or described, there shall be levied a rate of three shillings and four pence upon every one hundred

pounds of the value thereof: Provided always, that upon goods, the value of which cannot be ascertained satisfactorily, it shall be lawful for the Harbour Commissioners to levy a rate of one shilling and three pence per ton weight or measurement, as they may see fit.

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12 VIC., CHAP. 117.

An Act to repeal a certain Act and Ordinance therein mentioned, relating to the Trinity House at Montreal, and to amend and consolidate the provisions thereof.

[30th May, 1849.]

WHEREAS it is expedient to provide for the better regulation of that part of the River St. Lawrence between the Basin of Portneuf exclusively, in the county of Portneuf, in the District of Quebec, and the Province Line formerly dividing the Provinces of Upper and Lower Canada, and of the several Rivers falling into the River St. Lawrence within the said limits, and of the Shipping therein, and of the Pilots employed in the navigation thereof, and to continue a Trinity House in the City of Montreal, independent of, and distinct from the Trinity House of Quebec, and for other purposes: And whereas the several Acts under which the Trinity House of Quebec was heretofore constituted and governed are repealed by an Act of this Session, whereby the jurisdiction of the said Trinity House is limited to places below the said Basin of Portneuf: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Ordinance of the Governor and Special Council for the affairs of the late Province of Lower Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance to suspend in part certain Acts therein mentioned, and to establish and incorporate a Trinity House in the City of Montreal*, and the Act of the Legislature of this Province passed in the Session held in the fourth and fifth years of the Reign of Her present Majesty, and intituled, *An Act to provide for the construction of certain Lighthouses and Lights within the Port of Montreal*, shall be and the same are hereby repealed: Provided nevertheless, that no Act or Ordinance or part of an Act or Ordinance repealed by the Act or the Ordinance hereby repealed, shall be revived by the passing of this Act; and notwithstanding the repeal of

Preamble.

L. C. Ordinance 2, Vict.
(3) c. 19 repealed.

Canada 4 and 5 Vict., c. 59, repealed.

Repeal of such Act and Ordinance not to revive former Acts

and Ordinances, &c.

Proviso:
the corpora-
tion of the
Trinity House
of Montreal to
continue.

Proviso.

Existing By-
laws continu-
ed until re-
pealed or
altered.

the Act and the Ordinance hereby repealed, all matters and things which might have been done, and all proceedings which might have been taken or prosecuted, relating to any offences which shall have been committed, or to any matters which shall have happened or to any pilotage or other moneys which shall have become due, or to any fines or penalties which shall have been incurred before the passing of this Act, may still be done and prosecuted, and the offences may be dealt with and punished, and the pilotage and other moneys may be recovered and dealt with, and the fines and penalties may be enforced and applied as if the Act and the Ordinance hereby repealed continued in force: Provided always, that nothing in this Act contained shall operate as a dissolution or extinguishment of the said Corporation of the Trinity House of Montreal, as at present established by law, but that the present members thereof, to wit: the present Master, the present Deputy Master, and the present Wardens of the Trinity House of Montreal and their Successors in Office to be appointed as hereinafter provided shall remain and continue to subsist as, and shall be a Body Corporate and Politic for the purposes of this Act, in name and in deed, by the name of *The Trinity House of Montreal*, and shall continue to have perpetual succession and a Common Seal, with power to change, alter, break and make new the same, when and as often as they shall think fit so to do, and they and their successors by the same name shall sue and be sued, implead and be impleaded, answer and be answered, in any Court of Record or place of Judicature in this Province, in as large, ample and beneficial a manner and form as any other body politic and corporate, or any persons able and capable in law, may or can sue, implead or answer, or be sued, impleaded and answered in any manner whatsoever, and shall be able and capable in law to purchase, take, acquire, receive, have, hold, possess, enjoy and retain any real or immovable property, for the purpose of erecting Lighthouses or Beacons, and for the other purposes of this Act; and also to take, purchase, acquire, receive, hold and possess any personal or movable property whatsoever for the like or any other purposes of this Act: And provided further, that nothing in this Act contained shall revoke or be construed to revoke the commission or appointment of the present Officers of the said Corporation.

II. Provided always, and be it enacted, That all By-laws, Rules, Orders and Regulations heretofore lawfully made by the said Corporation of the Trinity House of Montreal, and in force at the time of the passing of this Act, and which shall not be at variance with any of the provisions herein contained, shall remain, continue and be in full force and virtue until the same respectively shall be annulled or altered, or other By-laws, Rules, Orders or Regulations

made in lieu thereof under this Act, and shall be and are hereby declared to be good and valid By-laws, Rules, Orders and Regulations under this Act, as fully as if they had been made under the authority of the same, anything hereinbefore contained to the contrary notwithstanding: and provided further, that the said Corporation shall within three months from and after the passing of this Act, by a By-law to that effect, regulate and adjust the amount of costs recoverable in and upon the several and respective prosecutions and law proceedings to be commenced and had under this Act. Proviso.

III. And be it enacted, That it shall be lawful for the Governor of this Province, by an instrument under the Great Seal of this Province, to remove from time to time the said Master, Deputy Master and Wardens, or any or either of them, and to appoint others to be the successors of such as shall be so removed or shall die or resign their trust; Provided always, and it is hereby enacted, that the Master of the Trinity House of Montreal for the time being shall always *ex-officio* be the Principal of the said Corporation; and provided also, that the number of the Wardens shall never exceed seven at any one time; and it shall also be lawful for the Governor of this Province in like manner to appoint and remove from time to time such Officers, Clerks and Bailiffs, as he shall judge necessary for the said Corporation: Provided also, that nothing in this Act shall be construed to make it necessary that any new commission or appointment should issue or be made of, or in favour of any Member or Officer of the Trinity House of Montreal, but the said Members and Officers shall continue such until removed under this Act; nor shall anything herein contained be construed to make the said Corporation a new Corporation, any change in the name thereof notwithstanding. Governor may remove and appoint the members and officers.
Proviso.
Proviso.
Proviso.

IV. And be it enacted, That for all the purposes of this Act, the Port of Montreal shall be held and deemed to comprehend all that part of the River St. Lawrence which extends from the Basin of Portneuf, exclusively, in the County of Portneuf, in the District of Quebec, to the Province line formerly dividing the Provinces of Upper and Lower Canada, and shall include the several rivers falling into the St. Lawrence within the said limits; and the Harbour of Montreal, for the said purposes, shall be held and deemed to extend to, and comprehend that part of the said River St. Lawrence extending from the Point commonly called Point St. Charles, to the south-west end of the Military Hospital below the Quebec Barracks, and it shall be incumbent on the Master, Deputy Master and Wardens to cause to be erected land marks, to indicate the said boundaries, which land marks shall be taken to determine the same. Limits of the Port and Harbour of Montreal.

Power to the corporation to assemble and make by-laws for certain purposes.

V. And be it enacted, That the said Master, Deputy Master and Wardens of the Trinity House of Montreal, or any three of them, of whom the Master, Deputy Master, shall always be one, shall and may assemble and adjourn, and again assemble at such times and at such places within the said City of Montreal, as shall seem to them, or to the major part of them so assembled as aforesaid, to be necessary; and being so from time to time assembled as aforesaid, shall have full power and authority to make, ordain and constitute such and so many By-Laws, Rules and Orders not repugnant to the Maritime Laws of Great Britain, or to the laws of this Province, or to the express provisions of this Act, as by them or the major part of them so assembled as aforesaid, shall be judged expedient and necessary for the following purposes, to wit: for the direction, conduct and government of the said Corporation, and of the property, real and personal, by them held;—for the more convenient, safe and easy navigation of the River St. Lawrence, and of the several navigable rivers within the limits of the Port of Montreal, from the Basin of Portneuf, in the County of Portneuf, to the Province line, formerly dividing the Provinces of Upper and Lower Canada, as well by the laying down and taking up of buoys and anchors as by the erecting of lighthouses, beacons or land marks, placing of light-ships or floating lights, the clearing of sands or rocks, or other obstructions, or otherwise howsoever; for the amendment, improvement and regulation of the Harbour of Montreal and other Harbours within the limits of the said Port, and preventing injury thereto, and for removing and preventing encroachments and incumbrances thereon; for the anchoring, riding and fastening of all ships, steamers and other vessels resorting to the said Harbours, and for the better regulating and ordering of the same while lying in the stream, or at any wharf or other landing place in the said Harbours; for regulating and controlling the use of lights, and of fireplaces on board of such ships, steamers or other vessels when lying at any wharf or other landing place within the said Harbours; for regulating and controlling the landing of Gunpowder within the limits of the Harbour of Montreal; for regulating the boiling and melting of pitch, tar, turpentine or resin, or any other inflammable substance, in the said Harbours, or on the beaches thereof; for the maintenance of order and regularity, and the prevention of theft and petty depredations in the said Harbours; for the government and regulation of Pilots for and above the Harbour of Quebec, and the same to revoke, alter and amend, as in their opinion will most effectually promote the purposes for which this Act is intended; and for enforcing the execution of the said By-laws, Rules and Orders, the said Master, Deputy Master and Wardens, or any three of them, assembled as aforesaid, are hereby further empowered, in and by

such By-laws, Rules and Orders, to impose and lay any fine and penalty not exceeding twenty pounds currency upon every person who shall be guilty of infringing such By-laws, Rules and Orders, or to suspend for a time, or to dismiss from office such person, if a Pilot, who shall be guilty of the breach of any such By-laws, Rules and Orders as by them, or the majority of them as aforesaid shall be judged fit and reasonable: Provided always, that no such By-law, Rule or Order shall have any force or effect until the same shall have been sanctioned and confirmed by the Governor of this Province in Council, and shall thereafter have been published in such public *Gazette* or newspaper as shall be published by authority; and all such By-laws, Rules and Orders as shall be so made and confirmed as aforesaid shall be printed, and shall be hung up in some public or conspicuous place in the Custom House of the Port of Montreal; and copies thereof, certified by the Clerk or Registrar of the said Corporation, under the Seal thereof, shall be admitted as full proof of the same in all Courts of Justice in this Province.

VI. And be it enacted, That before the said Master, Deputy Master and Wardens shall enter upon the execution of the duties for them prescribed by this Act, or any of them, they shall severally take and subscribe an oath, before one of the Justices of the Court of Queen's Bench for the District of Montreal, in the words following, that is to say :

"I, A. B., do swear that I will truly and impartially, according to the best of my skill and understanding, execute the powers vested in me by a certain Act, intituled, *An Act to repeal a certain Act and an Ordinance therein mentioned, relating to the Trinity House at Montreal, and to amend and consolidate the provisions thereof.* So help me God."

Which oath so taken and subscribed shall be filed of record and remain deposited in the office of the Prothonotary of the said Court.

VII. And be it enacted, That it shall be lawful for the Master, Deputy Master and Wardens of the said Trinity House of Montreal, or any three or more of them, to hear and determine all matters and things relating to any beach of the River St. Lawrence, or of any other rivers within the jurisdiction of the Corporation, disputes between any Pilot and any Master of a ship or vessel, respecting any sums of money claimed for pilotage or extra or other services, and also all matters of complaint against Pilots for neglect or misbehaviour in any part of the duty required of them by this Act, or by the By-laws, Rules, Regulations or Orders of them, the said Master, Deputy Master and Wardens, enacted and made by virtue of this Act, as well as to hear and to determine all offences committed against this Act, or against

Master, deputy master and wardens to take on oath.

Oath.

Master or deputy master and wardens may decide certain matters.

Beaches.

Disputes between pilots and shipmasters.

T. H. M. may
summon wit-
nesses, &c.

May award
costs, issue
warrants and
levy amount
of judgment
or fine.

Bailiff may
board any
vessel within
limits of juris-
diction.

In cases of a
return of
nulla bona.

Proviso.

any such By-laws, Rules, Regulations, or Orders, by any person or persons whatsoever, for which especial provision is not herein made for trial by other jurisdictions, and that the said Master, Deputy Master and Wardens, or any three of them are hereby required and empowered, upon information, to summon the party accused, or from whom money shall be claimed (which service of summons may be made either within the limits of the Port of Montreal or the Port of Quebec), and the witnesses to be heard as well in his favour as against him, by any of the Bailiffs of the said Corporation, and upon the appearance (or default of the party accused or complained against, in not appearing, upon proof of service of such summons) to proceed to the examination of the witness or witnesses upon oath, and to give judgment accordingly, with such costs thereupon as they shall think reasonable; and when the party accused or complained against shall be convicted of such offence, or if judgment be given on such claim by proof or confession, to issue a Warrant or Warrants under the hand of the Registrar and under the Seal of the said Corporation, empowering and requiring any of the Bailiffs of the Corporation, of the goods and chattels belonging to the party convicted, to levy the amount of such judgment or of any pecuniary fine imposed by such conviction, with the costs of suit, and cause sale thereof to be made, which Warrant shall authorize the Bailiff to go on board of any ship or vessel lying on any part of the River St. Lawrence or any other River within the limits of the jurisdiction of the said Trinity House of Montreal, and there to execute by *saisie* and sale of goods and chattels which shall then and there be found appertaining to the person or persons against whom such Warrant shall be thus issued, and also so to go on board on return of *nulla bona*, to execute the Warrants as hereinafter mentioned, and when the goods of such person or persons so convicted, or against whom a judgment shall be given, shall not be found, the said Master, Deputy Master and Wardens, or any three of them, on return of *nulla bona* to them made by such Bailiff, shall and may by Warrant under the hands of any two of them, and of the Registrar, and the Seal of the said Corporation, addressed to any of the Bailiffs of the said Corporation, cause to be apprehended and committed, the person or persons against whom such judgment shall have been so given, or the person or persons so convicted, to the Common Gaol of the District in which such person shall be found, there to remain until the penalty imposed by such conviction, or the amount of the judgment given, with the costs in either case, shall have been paid and satisfied; Provided always, that no person so committed shall be so detained in prison for a period exceeding twelve calendar months; and provided also, that all disputes between Pilots and Masters of vessels, occurring on the River St. Lawrence and while the vessel is on her way from Quebec to Montreal,

or from Montreal to Quebec, may be heard and determined either by the Master, Deputy Master and Wardens of the Trinity House of Quebec, or by the Master, Deputy Master and Wardens of the Trinity House of Montreal.

VIII. Provided always and be it enacted, That the Master of any ship or vessel, or any person or persons against whom a judgment shall be given as aforesaid, for a sum exceeding twenty pounds currency, upon giving security to the person or persons in whose favour such judgment shall be so rendered, to the satisfaction of the Master or Deputy Master and Wardens who rendered such judgment for the amount thereof, with costs, shall be entitled to an appeal to the Court of Queen's Bench of the District of Montreal, and the said Court of Queen's Bench, upon the hearing of such appeal, shall give such judgment as in its consideration shall be just and right, with costs, and the judgment of such Court of Queen's Bench shall be final, except in cases exceeding the sum five hundred pounds sterling, in which case an appeal shall lie in the ordinary course of law to the Provincial Court of Appeals and from thence to the Court of Her Majesty, in Her Privy Council: Provided also, that nothing in this Act contained shall extend or to be construed to extend or authorize the going on board of Her Majesty's ships or vessels by Her duly commissioned, to serve any summons, or to execute any Warrant of seizure from the said Corporation: Provided also, that the proceedings and evidence had before the said Master, Deputy Master and Wardens, where their judgment shall exceed the sum of twenty pounds currency, shall be recorded and preserved of record, and also in all cases where the same shall extend to deprive a Pilot of his Branch or License.

Appeal from judgments above £20 currency.
Security to be given.

If above £500 sterling, to Provincial Court of Appeal, &c.

Proviso.

Proviso.

IX. And be enacted, That in all cases where it shall be necessary to serve a Writ of Summons upon any person or persons, for any offence committed against this Act or against any such By laws, Regulations or Orders, made and constituted by this Corporation, the service of such Writ, if the party offending is not to be found, or refuse to give his name, shall be deemed a legal service, if the copy of such Writ is left by the Bailiff of the Corporation on board of the ship, vessel, steamer, raft or river craft, belonging to or in charge of the party so offending, between the hours of seven in the morning and six in the afternoon, in the hands of some reasonable person on board, to whom the Bailiff shall explain the purpose of such Summons.

What shall be deemed sufficient service of process.

X. And be it enacted, That the said Master, Deputy Master and Wardens, when sitting judicially upon any complaint cognizable by them or any number of them under this Act, are, and each of them is hereby empowered to administer an oath unto the witness or witnesses who shall

Power to administer oaths.

False swear-
ing.

be produced on either side, as well as unto the Plaintiff or Plaintiffs, Defendant or Defendants, or any other person whom in such case it shall be necessary to examine on oath, upon the trial of any such complaints; and any person who shall wilfully swear falsely under such oath, shall be guilty of wilful and corrupt perjury, and being thereof duly convicted, shall be liable to all the pains and penalties provided by law against that offence.

Where the de-
fendant has
not goods
within the
jurisdiction of
Trinity House
of Montreal
but shall have
such within
the jurisdic-
tion of the
Trinity House
of Quebec.

XI. And be it enacted, That when any person or persons against whom judgment shall be given by the Master, Deputy Master and Wardens of the Trinity House of Montreal, or any three of them, shall not have sufficient goods and chattels within the jurisdiction of the said Trinity House wherein such judgment shall have been obtained, but shall have goods and chattels within the jurisdiction of the Trinity House of Quebec, it shall be lawful for the Master or Deputy Master and Wardens, under the Hand of the Registrar of the said Trinity House and Seal of the Corporation, to award execution, addressed to the Water Bailiff or any Bailiffs of the Trinity House of Quebec, who after getting the Warrant endorsed by the Master or Deputy Master of the said Trinity House of Quebec, (who is hereby required to endorse the same), in the jurisdiction of which the goods and chattels are situated, shall execute the same and make return thereof to the Trinity House of Montreal, from which it issued; and such Warrant and Return shall be by him sent to the Registrar of the Trinity House of Montreal, whence the Warrant was originally awarded, to be delivered to the Master, Deputy Master and Wardens of the said Trinity House of Montreal, and the said Master, Deputy Master and Wardens of the said Trinity House of Montreal may, in like manner, award a Warrant against the body of a person or persons residing in the jurisdiction of the said Trinity House of Quebec, in cases where such Warrant is by this Act allowed, and such Warrant being endorsed by the Master or Deputy Master of the Trinity House of Quebec who is hereby required to endorse the same, may be executed within that jurisdiction, and the Water Bailiff or Bailiffs executing the Warrant to him in such case directed shall convey the body of such person or persons into the Common Gaol of the District and Jurisdiction wherein such person or persons shall be arrested.

Warrant
against the
body.

Power to pre-
serve order in
Court.

XII. And be it enacted, That the said Master, Deputy Master and Wardens or any three of them sitting in their judicial capacity, shall have such and the like power and authority to preserve order in their Court during the holding thereof, and by the like ways and means as now by law are or may be exercised and used in the like case, and for the like purpose, or by any Court of Justice in this

Province, or by the Judges thereof respectively during the sitting thereof.

XIII And be it enacted, That it shall be lawful for the said Corporation of the Trinity House of Montreal to tax and allow to each and every person duly summoned and appearing before them as a witness, upon any complaint or information, his reasonable expenses in giving his attendance, and also such compensation for loss of time as in their discretion they shall think fit, and the circumstances of the case may seem to them to require, and that every sum so taxed and allowed shall enter into and form part of the costs which the losing party in each case shall be condemned to pay; and that if any person who shall be duly summoned as a witness upon any complaint or information before the said Corporation of the Trinity House of Montreal shall refuse or neglect to appear at the time by such summons appointed, having no just cause for such neglect or refusal, it shall be lawful for the said Corporation of the Trinity House of Montreal, on proof of such summons being served, to issue a Warrant under the Seal of the said Corporation, to bring such person before them; and if on his appearance, or on being brought before the said Corporation of the Trinity House of Montreal, such person shall refuse to be examined on oath concerning the premises without having some just cause for such refusal, it shall be lawful for the said Corporation, by Warrant under their Seal, to commit such person to the Common Gaol of the District of Montreal, or of any other District in this Province where such person shall be apprehended, there to remain for any time not exceeding three months, as the said Corporation shall direct.

Power to commit witnesses refusing to attend.

XIV. And be it enacted, That no person shall hereafter be appointed and commissioned as a Pilot for and above the Harbour of Quebec, until he shall have been examined in the presence of such Branch Pilots as may have been summoned for that purpose by the Master, Deputy Master and Wardens, or any three of them (and who shall propose questions,) and shall have obtained a certificate from the said Master, Deputy Master and Wardens of the said Trinity House of Montreal, or any three of them, of whom the Master or Deputy Master shall be one, under their hands and the hand of the Registrar and the Seal of the said Corporation, of his having been so examined, and being found in all things duly qualified to serve as a Branch Pilot for and above the Harbour of Quebec: Provided always, that every Pilot who now holds a Branch shall continue to hold the same, unless he shall by some offence committed after the passing of this Act, and after conviction thereof, have forfeited such Branch.

Appointment of pilots and their qualification.

Proviso.

Examination
of pilots.

XV. And be it enacted, That from and after the passing of this Act, no person shall be permitted to undergo an examination to obtain a license and to act as Pilot for and above the Harbour of Quebec, unless he shall have been constantly employed during five years in the River navigation between Quebec and Montreal, during which period he shall have been employed three years in sailing vessels, and shall be able to speak the English and French languages, to work a ship if required, and to be well acquainted with both shores of the River St. Lawrence between Quebec and Montreal, and shall prove the same in a satisfactory manner by certificate from two or more persons, which certificate shall be duly attested by the oath of the persons giving the same, if required by the Corporation of the Trinity House of Montreal, or by any of the persons present at such examination.

Pilots sus-
pended until
payment of
fines and costs
in certain
cases.

XVI. And be it enacted, That when and as often as any pecuniary penalty incurred by any Branch Pilot for and above the Harbour of Quebec, under the provisions of this Act, shall have remained unpaid for the space of three months after the conviction of such Pilot for the offence to which such penalty is attached, such Pilot shall, from and after the expiration of the said period of three months, be and remain suspended from the exercise of his functions as a Pilot, until the said penalty and the costs awarded on such conviction shall have been fully paid: Provided always, that it shall be lawful for the said Corporation to insert in any such conviction the penalty of such suspension as aforesaid, in case such pecuniary penalty shall not be paid within a certain period to be therein mentioned, which period shall in no case exceed three months nor be less than one.

Proviso.

Dismissal and
reinstatement
of pilots.

XVII. And be it enacted, That in case of the loss of any ship, steamer or other vessel, or of damages done to the same, through the fault of any Branch Pilot for and above the Harbour of Quebec having charge of the same, it shall and may be lawful to and for the said Master, Deputy Master and Wardens of the Trinity House of Montreal, or any three or more of them, upon complaint or information of the Master or owner of such ship, steamer or other vessel, or other person whomsoever, to declare that such Pilot has forfeited his Branch, and such Pilot shall be deprived of his Branch accordingly: Provided always, that any such Branch Pilot who hereafter or already may have forfeited and been deprived of his Branch, by reason of the loss of any ship, steamer or other vessel, or for any other cause whatsoever, shall and may at any time hereafter, on application of such Pilot, be by the said Master, Deputy Master and Wardens, if they shall deem it expedient so to do, reinstated under a new Branch, such Pilot being, previous to his rehabilitation,

Proviso.

examined by the said Master, Deputy Master and Wardens of the Trinity House of Montreal, and by them approved, as to his fitness and capacity.

XVIII. And be it enacted, That a list of the Branch Pilots for and above the Harbour of Quebec, specifying their names, ages and places of residence shall annually be delivered in the month of March in each and every year, signed by the Master or Deputy Master, and by one or more of the said Wardens, and by the Registrar of the said Trinity House of Montreal, to the Corporation of the Trinity House of Quebec, to the Collector of the Customs at Quebec, and to the Collector of the Customs at Montreal, which lists the said Collectors respectively shall put up in some public place in the Custom House in each of the said cities.

Annual list of branch pilots to be published.

XIX.—*Repealed by 27-28 V., c. 58.*

XX. And be it enacted, That whenever any Branch Pilot for the and above the Harbour of Quebec shall have been duly and lawfully convicted under the authority of this Act, of want of due care and diligence, or of incapacity in conducting any ship, steamer or other vessel, it shall be lawful for the said Master, Deputy Master and Wardens of the Trinity House of Montreal, to adjudge that such Branch Pilot shall, in addition to any fine or penalty which he may be condemned to pay, or any other punishment which may be imposed upon him in consequence of such conviction, forfeit and lose any sum of money which he would otherwise be entitled to have and receive for piloting such ship, steamer or other vessel on that occasion; and if such sum of money, or any part thereof, shall have been already paid to such Branch Pilot, he shall on such conviction as aforesaid, refund such sum of money as he may have so received to the person from whom he received the same.

Pilot convicted of negligence may be condemned to forfeit pilot money.

XXI. And be it enacted, That if any person not being a Branch Pilot as aforesaid, shall conduct or pilot any ship or vessel, not being a river-craft, steamer, barge or lighter, engaged in the navigation between Quebec and Montreal only, for hire or otherwise, on the River St. Lawrence, between the Basin of Portneuf aforesaid, and the Harbour of Montreal, such person shall for every such offence, forfeit and pay the sum of five pounds currency, to be recovered, with costs, by any person who shall sue for the same before the said Master, Deputy Master and Wardens of the said Trinity House, or any three of them, which forfeiture or forfeitures shall go to the Master, Deputy Master and Wardens of the said Trinity House, and be applied in the manner hereinafter directed; and if any Branch Pilot, during such time as he shall be suspended and deprived of

Penalty on persons not being branch pilots acting as such.

Penalty on
suspended
pilots for
piloting.

Proviso.

his Branch under and by virtue of this Act, shall conduct or pilot any ship or other vessel, for hire or otherwise, within the said limits, such Pilot shall, for every such offence forfeit and pay a sum not exceeding five pounds currency, to be recovered with costs, by any person who shall sue for the same in manner as aforesaid, which said forfeiture shall go to the Master, Deputy Master and Wardens of the said Trinity House of Montreal, and be applied in the manner hereinafter directed: Provided always, that the Master of any ship or vessel, not being such river-craft, steamer, barge or lighter, shall be liable to a like penalty, to be imposed, forfeited, levied, and applied in the manner hereinbefore mentioned, for hiring, engaging or employing any person not being a Branch Pilot, and for not requiring to exhibit his Branch to him before such hiring or engagement.

Pilots to obey
the captain of
the Port.

XXII. And be it enacted, That if any Branch Pilot having the charge or direction of any ship, steamer or other vessel in the Harbour of Montreal, shall neglect or refuse to obey such orders or directions as shall or may from time to time be given to such Branch Pilot, by the Captain of the Port of Montreal (under and by virtue of and agreeably to the powers vested in him by this Act, or by any By-law of the said Corporation of the Trinity House of Montreal), touching or relating to the mooring, unmooring, moving, or removing of such ship, steamer or other vessel, so being under the charge or direction of such Branch Pilot as aforesaid, then and in such case every such Branch Pilot so offending, shall forfeit and pay a sum not exceeding ten pounds currency, and every such Branch Pilot shall be liable to be dismissed from being a Pilot, or suspended from acting as such, at the discretion of the said Corporation or of any other authority from whom he may have received his Branch.

Rates of pilot-
age to be
those set forth
in this Act.

XXIII. And be it enacted, That from and after the passing of this Act, the Pilots may demand, for the pilotage of any vessel between Quebec and Montreal, the rates following, that is to say: from the Harbour of Quebec to Portneuf, on the north side of the River St. Lawrence, and the opposite side of the said river, or to any other place above the Harbour of Quebec and below Portneuf, for a vessel not exceeding two hundred tons measurement by register thereof, upwards four pounds and downwards two pounds ten shillings; if above two hundred tons and not exceeding two hundred and fifty tons, upwards five pounds and downwards three pounds ten shillings; and if above two hundred and fifty tons, upwards six pounds and downwards four pounds;—from the Harbour of Quebec to the Town of Three Rivers, and the opposite side of the said River St. Lawrence, or any other place above Portneuf and below the said Town of Three Rivers, for a vessel not exceeding two hundred tons

measurement by register thereof, upwards six pounds and downwards four pounds; and if above two hundred tons and not exceeding two hundred and fifty tons, upwards seven pounds and downwards four pounds ten shillings; and if above two hundred and fifty tons, upwards eight pounds and downwards five pounds ten shillings;—from the Harbour of Quebec to the Harbour of Montreal, or to any other place above the Town of Three Rivers and below the Harbour of Montreal, for a vessel not exceeding two hundred tons measurement by register thereof, upwards eleven pounds and downwards seven pounds ten shillings; if above two hundred tons and not exceeding two hundred and fifty tons, upwards thirteen pounds and downwards eight pounds fifteen shillings; and if above two hundred and fifty tons, upwards sixteen pounds and downwards ten pounds fifteen shillings: Provided always, that whenever the vessel shall be towed by a steamer the Pilot shall be entitled to one-half only of the above rates, and no greater rates or reward or emolument for such pilotage shall, under any pretence whatever, be demanded, solicited, received, paid or offered, on pain of forfeiting not exceeding ten pounds currency for every such offence, as well by the person demanding, soliciting or receiving, as by the person paying or offering such greater rates, rewards or emolument.

Proviso.

Penalty.

XXIV. And be it enacted, That the Montreal Decayed Pilots' Fund, and all and every the sums of money composing and forming part of the same at the time of the passing of this Act, or which shall hereafter be contributed to or form part of the same under the provisions of this Act, shall be and shall continue to be vested in the said Master, Deputy Master and Wardens of the Trinity House of Montreal, for the purpose of relieving Pilots for and above the Harbour of Quebec, and the Widows and Children of such Pilots who may have fallen or may fall into decay, misery, poverty and need, and shall be and shall continue to be under the management of the said Master, Deputy Master and Wardens of the Trinity House of Montreal, who are hereby authorized and required to grant such relief out of the same, to such distressed and decayed Pilots, and the Widows and Children of such Pilots, as the said Master, Deputy Master and Wardens of the Trinity House of Montreal, or a majority thereof, may deem just and proper; and the moneys which at the end of each year shall not be distributed for the said purpose, shall be vested in public debentures, or other securities bearing interest upon immovable property, according to the best of the judgment of the said Master, Deputy Master and Wardens of the Trinity House of Montreal, or a majority thereof, and an account of the state of the said Fund shall annually be laid before the Governor of this Province.

Montreal Decayed Pilots' Fund continued, &c.

Contribution
of pilots.

XXV. And whereas it is necessary to provide for the maintenance of the Montreal decayed Pilot Fund, be it enacted, That every person who at present is, or who shall hereafter become a licensed or Branch Pilot for and above the Harbour of Quebec, shall contribute to the said Fund one shilling in the pound out of every sum of money which after the passing of this Act he shall be entitled to receive for pilotage, which said contributions shall be levied and recovered in the manner hereinafter mentioned.

Master of
ships not be-
longing to
Her Majesty,
retain pound-
age.

XXVI. And be it enacted, That the Master or Commander of every ship, steamer or other vessel (not belonging to Her Majesty) is hereby authorized and required to stop and retain one shilling in the pound out of every sum of money accruing and payable to any Branch Pilot for and above the Harbour of Quebec for the pilotage of the ship, steamer or other vessel by him commanded, as well on the passage inwards as on the passage from Montreal outwards, and for moving the same within the Harbour of Montreal, and every poundage so required to be stopped and retained shall, by every Master or Commander be paid as hereinafter directed and provided for, before the ship, steamer or other vessel by him commanded shall be cleared outwards: Provided always, that a sum of money equal to one shilling in the pound out of every sum of money received or to be received hereafter by each and every Pilot for and above the Harbour of Quebec, for the pilotage of ships, steamers or other vessels belonging to Her Majesty or any foreign Power, shall be paid and be payable by such Pilot to the Treasurer of the said Corporation, and shall be paid on or before the first day of July and on or before the first day of January in every year; and the said Master, Deputy Master or some of the Wardens are hereby authorized and required, when any doubt shall arise as to the amount of such pilotage received by a Pilot, to administer to him an oath to ascertain the amount; and if any such Pilot liable to contribute to such Fund in manner last aforesaid, shall neglect to pay to the Treasurer of the Corporation the said poundage on the pilotage by him so received, for the three months following the periods aforesaid, every such Pilot so neglecting, upon conviction thereof before any three Wardens, shall forfeit and pay for the use of the said Fund a sum not exceeding ten pounds currency; and upon a second conviction for a like offence, shall be suspended during three months; and if a third time convicted of a like offence, shall forfeit his Branch as a Pilot, and be rendered incapable of afterwards receiving, or his widow or children, any benefit or assistance from the said Fund.

Pilots to pay
poundage on
pilotage of
Her Majesty's
ships to the
Treasurer of
the corpora-
tion.

Collector of
Her Majesty's
Customs to
collect contri-

XXVII. And be it enacted, That from and after the passing of this Act it shall be lawful for the Collector of Her Majesty's Customs for the Port of Montreal, and he is here-

by authorized and required to ask, demand and receive from the Master or Commander of every ship, steamer or other vessel departing from the Port of Montreal to any Port or place without the eastern limits of this Province, including hired ships and transports in Her Majesty's service, a sum of one shilling in the pound out of every sum of money accrued or accruing and payable by the said Master or Commander to any Pilot for the pilotage thereof for and above the Harbour of Quebec as well on the passage inwards of such ship, steamer or other vessel, as on her passage from Montreal outwards, as also for moving the said ship, steamer or other vessel within the Harbour of Montreal, as the case may be.

Contributions from vessels not belonging to Her Majesty.

XXVIII. And be it enacted, That the said Master, Deputy Master and Wardens of the Trinity House of Montreal shall publish annually or cause to be published in a gazette or newspaper published by authority in the City of Montreal, in the month of January a full and complete statement of the funds belonging to or in anywise appertaining to the Pilots for and above the Harbour of Quebec and known as the Montreal Decayed Pilots' Fund, with the names of all persons receiving pensions or allowances of any kind from and out of the said funds, and shall furnish a printed copy of such statement, at the expense of the funds aforesaid, to every Pilot or person applying for the same residing in this Province, directly contributing to the said Fund and therein immediately interested.

Annual statement to be published.

XXIX. And be it enacted, That all fines and penalties under this Act, recovered from Branch Pilots for and above the Harbour of Quebec, shall be paid to the Treasurer of the said Corporation of the said Trinity House of Montreal, and compose a part of the said Decayed Pilots' Fund, and by the said Corporation shall be applied to the purposes of the said Fund, as by this Act are authorized and directed, and no other.

Fines and penalties paid to Treasurer.

XXX. And be it enacted, That in all cases where it shall be necessary to serve a summons upon any Branch Pilot for and above the Harbour of Quebec, for any offence against this Act or against any By-laws, Rules, Regulations or Orders, made and constituted by the said Master, Deputy Master and Wardens of the Trinity House of Montreal, the service of such summons if the party offending is not to be found, shall be deemed a legal service if a copy of such summons is left by the Bailiff of the said Corporation at the domicile of the said Pilot, if residing in the City of Montreal, or at the usual stopping place of such Pilot when in the said City, with a person or persons residing at such stopping place or house.

Service of Trinity process on pilots.

Office and
duty of the
captain of the
port.

XXXI. And be it enacted, That the offices of Captain of the Port of Montreal and Harbour Master of Montreal, shall be held by one and the same person, who shall be called Captain of the Port of Montreal; and it shall be the duty of the said Captain of the Port of Montreal to superintend and enforce the execution of this Act, or any other Act which shall relate to the Port and Harbour of Montreal, as also all and every the By-laws, Rules, Orders and Regulations continued by this Act, or which may hereafter be enacted by the said Master, Deputy Master and Wardens of the Trinity House of Montreal, by virtue of this Act, for the amendment and improvement of the Harbour of Montreal, for the anchoring, riding and fastening of all ships, steamers or other vessels, rafts or cribs resorting to the said Harbour of Montreal, and for the better regulating and ordering the same while lying in the stream or at any wharf in the said Harbour of Montreal; and it shall likewise be the duty of the said Captain of the Port of Montreal to enquire into and ascertain whether any and what encroachments or nuisances may be made, or may exist upon the rivers, streams, waters and beaches within the Port and Harbour of Montreal, and which may be injurious to the navigation, or may obstruct the due and lawful use thereof by the public, and to make from time to time to the said Corporation of the Trinity House of Montreal, a report of all such encroachments and nuisances which may be found to be made or to exist as aforesaid, as soon after the same shall have come to his knowledge as he conveniently can, and thereupon the said Corporation shall cause such legal proceedings to be taken as may be necessary to abate such nuisances and to restrain and do away with such encroachments and obstructions, and it shall likewise be the duty of the said Captain of the Port of Montreal to superintend the Pilots for and above the Harbour of Quebec, and also to superintend the lights, light-vessels and floating lights, lighthouses, beacons or land-marks, the laying down and taking up of buoys within the limits of the said Port of Montreal; and it shall further be the duty of the said Captain of the Port of Montreal to make an abstract of all the Laws, By-laws and Regulations concerning Pilots and the Navigation of the River St. Lawrence and other waters within the limits of the Port of Montreal, or expressive of the duties of Masters of vessels in the Harbour of Montreal, and to cause a copy of the same, printed or written, signed by him, to be affixed and continued and renewed as often as the same shall be obliterated and defaced, at the Custom House and at the Trinity House at Montreal respectively, and also to deliver, without fee or reward, a copy of the same to every Master or Commander of a ship, steamer or other vessel, who shall make application for the same at his office in the City of Montreal; and the Captain of the Port of Montreal, before entering upon the duties of his

Captain of
the port to
take an oath
of office.

office, shall take and subscribe an oath before one of the Judges of the Court of Queen's Bench for the District of Montreal, in the following words, that is to say:—

"I, A. B., do swear that I will truly and impartially, to the best of my skill and understanding, execute the powers vested in me by a Law of this Province, intituled, *An Act to repeal a certain Act and an Ordinance therein mentioned, relating to the Trinity House of Montreal, and to amend and consolidate the provisions thereof.*"

Which oath so taken and subscribed, shall be filed of record and remain in the office of the Prothonotary of the said Court of Queen's Bench.

XXXII. And whereas it may be deemed necessary and expedient for the more safe, convenient and easy navigation of the River Saint Lawrence, and other rivers within the jurisdiction of the Trinity House of Montreal, that certain islands, lands and premises, pieces and parcels of land, trees and buildings required for land marks within the said jurisdiction, should be purchased and vested in the said Corporation of the said Trinity House, for the purpose of erecting a suitable and convenient house in the City of Montreal for the use of the said Corporation, and for erecting lighthouses, beacons, and land marks: Be it enacted, That the said Corporation, at any time or times hereafter, may, and they are hereby authorized and empowered to contract, compound, compromise and agree with the proprietors and occupiers of the said islands, lands and premises, pieces and parcels of land, trees and buildings, or any part of them, for the purchase of them; and it shall be lawful for all persons whomsoever, bodies politic and corporate, guardians, curators, fiduciary legatees and trustees whatsoever for themselves their heirs and successors, for and in behalf of those whom they represent or for whom they act, whether infants, lunatics, idiots, *femes-covert*, or other person or persons whomsoever who are or shall be seized of, or possessed of, or entitled to such islands, lands and premises, pieces and parcels of land, trees and buildings as aforesaid, to contract for, sell and convey the same to the said Corporation of the said Trinity House of Montreal, for such price and prices or consideration as may be agreed upon between them and the said parties respectively.

Trinity House may purchase lands, &c.; parties empowered to convey the same.

XXXIII. And be it enacted, That in all cases where the said Corporation, and the said owners and occupiers of the lands and real property aforesaid, or of any part thereof, shall not by voluntary agreement, settle and determine the price and prices to be paid for the same or any part thereof, such price or prices shall be ascertained, fixed and determined by the award of Arbitrators in the manner following, that is to say: the said Corporation shall and may nominate and appoint one Arbitrator, being an indifferent and disin-

In cases where owners of lands to be acquired cannot agree with corporation, reference to be had to arbitration.

interested person, and the said owners and occupiers respectively, shall and may nominate and appoint one other Arbitrator, being also an indifferent and disinterested person. and the said two Arbitrators, before proceeding to act as such Arbitrators, shall and may appoint a third Arbitrator, being also an indifferent and disinterested person, which said three arbitrators, after having been previously sworn before one of the Justices of the Court of Queen's Bench for the District of Montreal, well, truly and honestly to execute the trust and duty of Arbitrators as aforesaid, and, after notices to the parties respectively, of the time and place of their meeting, shall proceed to ascertain, fix and determine the price or prices to be paid by the said Corporation for such islands, lands and premises, pieces and parcels of land trees and buildings aforesaid, or any part thereof; and the award of any two of the said Arbitrators to be named and appointed as aforesaid, in and respecting the premises aforesaid, shall be final.

When the owner shall refuse or neglect to appoint arbitrators.

XXXIV. And be it enacted, That in case the said owner or occupier of the said islands, lands and premises, pieces and parcels of land, trees and buildings, or any of them, after due notice in this behalf from the said Corporation, shall refuse or neglect to name and appoint an Arbitrator as aforesaid, being an indifferent and disinterested person as aforesaid, or if the two Arbitrators named and appointed as aforesaid shall refuse or neglect to name and appoint a third Arbitrator as aforesaid, it shall be lawful in such cases respectively for one of the Justices of the Court of Queen's Bench for the District of Montreal, on application in this behalf by the said Corporation, to name and appoint, instead of such owner or occupier so refusing or neglecting, an Arbitrator on his behalf, or such third Arbitrator, to supply the place of the nomination which ought to have been made by the two Arbitrators previously appointed; and the Arbitrators and third Arbitrator as aforesaid to be appointed by such Justice as aforesaid, after having been respectively sworn by such Justice, well, truly and honestly to execute the trust and duty of Arbitrators and third Arbitrator as aforesaid, shall have the same power and authority in the premises, and their award shall have the same force and effect as if such Arbitrators and third Arbitrator had been named in the manner in the preceding section described as aforesaid.

On payment or refusal of price, lands to be vested in corporation.

XXXV. And be it enacted, That on payment of the price or prices to be fixed and determined as aforesaid, or in case of refusal or neglect to accept the same, on the deposit thereof in the hands of the Prothonotary of the said Court of Queen's Bench for the District of Montreal, for the use of the person or persons entitled to the same, the right of property, title and interest in and to such island or islands,

lands and premises, pieces or parcels of land, trees or buildings for which such price or prices shall be payable, shall be divested out of the owners and occupiers thereof, and the same shall become and be vested in the said Corporation for the purposes aforesaid.

XXXVI. And be it enacted, That such price and prices as aforesaid, to be agreed upon, fixed and determined as aforesaid, may be paid from and out of the sum and sums of money appropriated for the purposes of this Act, but no such price or prices shall be agreed for or paid by the said Corporation for a site for the purpose of erecting and for erecting a suitable house for the said Corporation, without the sanction and approval of the Governor, Lieutenant Governor or person administering the Government.

No purchase to be paid for but by the sanction of the Governor.

XXXVII. And be it enacted, That any person wilfully removing or destroying or maliciously procuring to be removed or destroyed, any buoy, floating light, beacon or land mark placed for the purpose of navigation in the river or on the shores of the River St. Lawrence, or on other rivers and shores within the jurisdiction of the Trinity House of Montreal (Lake St. Peter inclusive), every such person, for every such offence, upon conviction by one competent witness before the Trinity House of Montreal, shall forfeit and pay a penalty not exceeding one hundred pounds currency, with costs of suit, and be committed to the Common Gaol of the District of Montreal for a time not exceeding twelve calendar months, by a warrant under the hand of the Master, Deputy Master and Wardens, or any three of them of whom the Master or Deputy Master shall be one, and of the Registrar and the Seal of the Corporation; and that if any floating light, lighthouse, buoy, beacon or other mark placed or to be placed in any part of the said Port of Montreal, or on the land within the jurisdiction and under the authority of the Corporation, shall be, by accident or otherwise, removed, carried away or destroyed, by any vessel or raft, or by any vehicle, whatsoever, the Master or person in charge of such vessel, raft or vehicle, shall, within forty-eight hours, replace the same at his proper cost and charges, and shall incur a penalty not exceeding twenty pounds currency.

Punishment for destroying buoys or beacons.

Lights, buoys, &c., removed or destroyed by any vessel, &c., to be replaced.

XXXVIII. And be it enacted, That the Governor of this Province, in Council, shall determine what officers and persons it shall be necessary to employ in carrying into effect the provisions of this Act, and grant to such officers or persons such salaries or pay for their labour and responsibility in performing their respective duties as shall be deemed reasonable and proper in lieu of all fees and charges upon moneys received by them; and the said officers and persons shall give such security for the due performance of

Governor to determine what officers shall be employed and their salaries.

the duties of their respective offices as the Governor in Council shall, from time to time, direct.

Registrar and treasurer and captain of the port may appoint deputies.

XXXIX. And be it enacted, That it shall be lawful for the Registrar and Treasurer of the Trinity House of Montreal, and for the Captain of the Port and Harbour Master of Montreal, appointed under the authority of this Act, by an Instrument in writing under their Hands and Seals, by and with the approval of the Master, Deputy Master and Wardens of the said Trinity House, to appoint each some fit and proper person to be their Deputy, and in case of the illness or necessary absence of the said Registrar and Treasurer or Captain of the Port and Harbour Master, such Deputy shall be vested with, and may exercise all and every the powers and authorities which are by law vested in the said Registrar and Treasurer or Captain of the Port and Harbour Master.

Tonnage duty imposed on ships, or other vessels from the sea, entering or departing from the port of Montreal

XL. And be it enacted, That from and after the passing of this Act, it shall be lawful for the Collector of Her Majesty's Customs in the Port of Montreal, and he is hereby authorized and required to ask, demand and receive from the Master or Commander of every ship, steamer or other vessel entering the Port of Montreal from any Port or place without the Eastern limits of this Province, including hired ships or transports in Her Majesty's service, and passing any light, buoy or beacon placed under the control of the Trinity House of Montreal, the sum of one penny half-penny current money in this Province, per ton, for every ton of the burden of such ship, steamer or other vessel, according to the admeasurement thereof; and the like sum of one penny half-penny, money aforesaid, for every ton of the burden of every ship, steamer or other vessel aforesaid, departing from the Port of Montreal for any Port or place without the eastern limits of the Province, and passing any light, buoy or beacon placed under the control of the Trinity House of Montreal; and it shall not be lawful for the Collector of the Port of Montreal or the Collector of the Port of Quebec, or any other Officer of Her Majesty's Customs, to grant to any such ship, steamer or other vessel a clearance outwards unless and until the Master or Commander of such ship, steamer or other vessel shall have paid unto the said Collector of the Port of Montreal, as well the said tonnage duties as the poundage of the Montreal Decayed Pilots' Fund, payable to him under and by virtue of this Act; and provided also, that if any Master or Commander of any hired ship or transport in Her Majesty's service, or of any other ship, steamer or other vessel, as aforesaid, not requiring a clearance, shall leave the Port of Montreal, on such voyage aforesaid, without having first duly paid to the Collector of Her Majesty's Customs at the Port of Montreal, as well the amount of the tonnage duties

To whom to be paid.

No clearance until dues are paid.

Proviso.

Penalty on masters, &c., leaving the port without paying dues.

aforesaid, as the poundage aforesaid, payable by such Master or Commander to the said Collector under the provisions of this Act, every such Master or Commander shall, for every such offence, forfeit and pay not exceeding the sum of twenty pounds, current money of this Province.

XLI. And be it enacted, That from and after the passing of this Act, all steamers, barges, and registered river craft, (other than ferry boats) or vessels, navigating the River Saint Lawrence between Quebec and Montreal, within the limits of the Port of Montreal, or any of the waters within the said limits, or any part thereof, shall, whilst within the said limits be subject to the rules and regulations of the Trinity House of Montreal; and there shall be paid by the owner or owners thereof, the agent, master, or person in charge of any such steamer, barge, or registered river craft for each and every voyage or trip, which and every such steamer, barge or registered river craft, shall perform from Quebec to Montreal or from Montreal to Quebec, or to or from any port or place below the Town of Three Rivers and passing any light, buoy or beacon, placed under the control of the Trinity House of Montreal, a tonnage duty of one penny half-penny, and for each such voyage or trip to or from Montreal, to the Town of Three Rivers, or any intermediate port or place between the said Town and William Henry, a tonnage duty of one penny, and for each such voyage and trip to or from Montreal, to any port or place on the River Richelieu, or between William Henry and Montreal, a tonnage duty of one half-penny, current money of this Province, for every ton of the burthen of such steamer, barge or registered river craft, according to the admeasurement thereof; and the Pilots or persons, if branched or licensed, having charge of or piloting such steamers, barges or river craft, shall also respectively be liable for and contribute towards the Montreal Decayed Pilots' Fund, one shilling in the pound, upon the wages or hire they may respectively be entitled to have and receive for their service in such steamer, barge, or registered river craft; all which duties hereby imposed shall be raised, levied upon and collected from the owner or owners thereof, the agent, master or person in charge thereof, by the Master, Deputy Master and Wardens of the Trinity House of Montreal, or the Registrar and Treasurer thereof.

Steamers and registered river craft subject to rules and regulations.

Tonnage duty on them.

Pilots, if branched, piloting steamers, &c., to contribute to the Pilot's Fund.

XLII. And whereas in the case of ships, steamers or other vessels or registered river craft, navigating or towing within the limits of the Port of Montreal and not entering the Harbour of Montreal, the Master, Deputy Master and Wardens of the Trinity House of Montreal, or the Treasurer and Registrar thereof, may be unable to collect the dues payable on them, under this Act, Be it therefore enacted, That the owner, agent, master or person in charge of every such ship,

Vessels not entering the harbour of Montreal to pay collector at Quebec.

Penalty for
not paying.

steamer, vessel or registered river craft, shall within forty-eight hours after the return of the said ship, steamer, vessel or registered river craft, to the Port of Quebec, from the Port of Montreal, on each voyage or trip, pay or cause to be paid to the Collector of Her Majesty's Customs of the Port of Quebec, the amount of such dues; and in default of such payment within forty-eight hours after the return of such ship, steamer, vessel or registered river craft, the said owner, agent, master or person in charge thereof, shall pay a penalty not exceeding twenty pounds, current money of this Province; and the said Collector shall pay the amount of money so collected unto the Treasurer of the Trinity House of Montreal, in the manner directed in the forty-fifth section of this Act.

How all
moneys col-
lected are to
be employed.

XLIII. And be it enacted, That all moneys that shall be levied and raised under and by authority of this Act, (excepting the Poundage for the Montreal Decayed Pilot Fund), shall be applied to the improvement of the navigation of the River Saint Lawrence, and other waters within the limits of the Port of Montreal, and for the other purposes and requirements of this Act, under and by authority of the Corporation of the Trinity House of Montreal: and the said Corporation shall at all times render such accounts to such officer or person, and in such manner and form, and in such time, as the Governor shall direct, and an account in detail of all moneys received and expended by the said Corporation, and of all matters connected with the said receipt and expenditure, shall be laid before each Branch of the Legislature, within fifteen days after the opening of each Session of the Provincial Parliament.

Collectors to
make monthly
returns of
collections.

XLIV. And be it enacted, That the Collectors of Her Majesty's Customs at the Port of Montreal and the Port of Quebec, shall respectively make monthly returns to the Treasurer of the Corporation of the Trinity House of Montreal, of all collections made by them on account of the said Corporation for the uses thereof, or on account of the Decayed Pilots' Fund of the said Corporation; and the said monthly returns shall be in detail, specifying the date of each collection, the name and tonnage of each ship, steamer or other vessel, and the name of the Commander or Master thereof.

Moneys to be
paid over
monthly, and
how to be
applied.

XLV. And be it enacted, That all the moneys collected by and payable to the Collectors of Her Majesty's Customs at the Port of Montreal or the Port of Quebec, under and by authority of this Act, shall be paid by them monthly into the hands of the Treasurer of the Trinity House of Montreal, to be applied in the manner and for the purposes described and directed in the provisions of this Act.

How moneys
may be re-
covered.

XLVI. And be it enacted, That all moneys or duties to be collected under and by authority of this Act, shall or may

be recovered from the owner, agent, master, commander, or person in charge of any ship, steamer or other vessel subject thereto, by the Collectors of Her Majesty's Customs at the Port of Montreal or the Port of Quebec, or by the Master, Deputy Master and Wardens of the Trinity House of Montreal (as the case may be), in any manner by which duties are by law recoverable, and they may respectively seize any such ship, steamer or vessel, or any article or thing thereunto belonging, and detain it or them at the risk, cost and charges of the owner, master or person in charge of any such vessel as aforesaid, until the sum due and the cost and charges incurred in and about such seizure shall be paid in full.

Vessels may be seized, or any article on board.

XLVII. And be it enacted, That it shall not be lawful for the Corporation of the Trinity House of Montreal to have any transactions of a pecuniary nature, or in buying or selling with any Member or Members thereof, directly or indirectly.

Corporation not to contract, &c., with any member thereof.

XLVIII. And be it enacted, That the Members and Officers of the said Trinity House of Montreal shall be exempt from serving on any juries or inquests whatsoever, or as assessors or constables.

Members, &c., exempt from serving as jurors.

XLIX. And be it enacted, That all the fines and penalties recovered under this Act (excepting fines and penalties recovered from Branch Pilots) shall be paid to the Corporation of the Trinity House of Montreal, and shall be employed by the said Corporation for the improvement of the Navigation of the River Saint Lawrence within the limits of the Port of Montreal and the general purposes of the Corporation, and all such moneys shall be accounted for in the same manner as other moneys at the disposal of the said Corporation.

Fines to be paid to corporation.

Application thereof.

L. And be it enacted, That nothing herein contained shall extend or be construed to extend to affect the rights of Her Majesty, Her Heirs and Successors.

Rights of Her Majesty saved.

LI. And be it enacted, That this Act shall be deemed and taken to be a public Act.

Public Act.

LII. And be it enacted, That all prosecutions for offences against this Act shall be brought within twelve months after the commission thereof, and not after.

Limitation of prosecutions.



14-15 VIC., CHAP. 26.

An Act to amend the Montreal Trinity House Act.

[2nd August, 1851.]

WHEREAS it is expedient to amend a certain Act of the Legislature of this Province, passed in the Session held in the twelfth year of the Reign of Her present Majesty, intituled, *An Act to repeal a certain Act and Ordinance therein mentioned, relating to the Trinity House at Montreal, and to amend and consolidate the provisions thereof*, for the purpose of empowering the said Trinity House to regulate the rates of certain tonnage duties, and establishing a summary mode of enforcing the payment of the same : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Master, Deputy Master and Wardens of the Trinity House of Montreal, shall have power from time to time, with the approval of the Governor in Council, to reduce or increase the rates of tonnage duties imposed by the forty-first section of the Act hereby amended, so that no greater or less sum may be exacted from the shipping than it is necessary to expend for the maintenance of the lights and the security of the navigation : Provided always, that the rate of the said tonnage duties shall never be made to exceed the rate fixed by the forty-first section of the said Act.

Preamble.
12 Vict., c.
117.

Trinity House
may reduce or
increase duty
under section
41.

Proviso.

II. And be it enacted, That any reduction that may have heretofore been made in the rate of the said tonnage duties by the Master, Deputy Master and Wardens of the Trinity House at Montreal, under the sanction of the Governor in Council, shall be and is declared to be valid and is hereby ratified and confirmed, and all parties concerned in the said reduction are hereby indemnified from all legal liabilities consequent on their participation therein.

Reduction
already made
confirmed.

III. And be it enacted, That the forty-sixth section of the said Act, in so far as it relates to the recovery of the tonnage

Section 46 re-
pealed as re-
gards the
duties.

Mode of recovering such duties.

Power to seize the vessel, &c., on which they may be due.

On what application such seizure may be made.

duties imposed by the forty-first section of the said Act, is hereby repealed, and that the following provisions be substituted in its place, viz.: That the said tonnage duties shall or may be collected from the owner, agent, master commander or person in charge of any ship, steamer or other vessel subject thereto, by the Collector of Her Majesty's Customs at the Port of Montreal or the Port of Quebec, or by the Master, Deputy Master and Wardens of the Trinity House of Montreal, or the Registrar and Treasurer thereof (as the case may be) before any Court of competent jurisdiction, or if they or each of them deem it advisable, before any Magistrate residing in the City of Montreal or in the City of Quebec, if the sum demanded do not exceed Eleven Pounds currency, and if the sum demanded do exceed Eleven Pounds currency then before any Court of competent jurisdiction, and the above named parties or each of them shall also have power and authority immediately upon the non-payment of the said duty or any part thereof, even before judgment, to seize any ship, steamer or vessel, or any article or thing thereunto belonging, upon which the said duties may be owing, and detain it or them at the risk, cost and charge of the owner until the sum due and the costs and charges incurred in and about such seizure and detention be paid in full; and such seizure may be had and obtained upon the order of any Judge or Magistrate for the District of Montreal or Quebec, or upon the order of the Collectors of Customs at the Ports of Montreal or Quebec respectively, when not acting as applicants themselves in the matter as hereinafter enacted, which order such Judge, Magistrate and Collectors of Customs are and each of them as aforesaid is hereby authorized and required to give upon the application of the Master, Deputy Master and Wardens of the Trinity House of Montreal or the Registrar and Treasurer thereof, or of the Collector of Customs of the Port of Montreal or the Port of Quebec, on the affidavit of any one credible person, that any sum is due for such duty as aforesaid; and the said order may and shall be executed by any constable, bailiff or other person whom the said parties or any of them may choose to intrust with the execution thereof, and which said constable, bailiff or other person is hereby authorized and empowered to take all necessary means, and to take and require all necessary aid to enable him to execute the said order.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



18 VIC.; CHAP. 143.

An Act to provide for the management and improvement of the Harbour of Montreal and the deepening of the Ship Channel between the said Harbour and the Port of Quebec, and to repeal the Act now in force for the said purposes.

[Assented to, 19th May, 1855.]

WHEREAS it is expedient to amend the Act passed in the sixteenth year of Her Majesty's Reign, chaptered twenty-four, and intituled *An Act to provide for the improvement and enlargement of the Harbour of Montreal and for the deepening of Lake St. Peter and the improvement of the navigation of the St. Lawrence between the said points and for other purposes*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows :

Preamble.

16 Vict., c. 24.

I. This Act shall come in force and effect upon the first day of July, one thousand eight hundred and fifty-five, upon, from and after which day the said Act passed in the sixteenth year of Her present Majesty's Reign, and chaptered twenty-four, shall be and the same is hereby repealed, except in so far as it repeals any former Act or enactment ; and except so far as may be necessary for supporting or continuing any proceeding heretofore taken or hereafter to be taken upon any matter or thing whatsoever arising out of the said Act or any Act thereby repealed, or upon any criminal or civil process ; and except as to the recovery and application of any penalty for any offence committed against any of the said Acts before the commencement of this Act.

The said Act 16 Vict., c. 24 repealed from 1st July, 1855, when this Act shall come into force.

Exception as to proceedings commenced, &c.

II. All contracts and undertakings made and entered into by the Harbour Commissioners of Montreal and all debentures issued by them under the authority of the aforesaid Act or Acts, and all things done and rights acquired in vir-

Contracts, debentures, &c., under repealed Act to remain valid.

tue thereof, shall be and the same are hereby declared to be valid and confirmed, as if all the said Acts were in full force and vigor.

Corporation
of Harbour
Commission-
ers continued.

III. The Body Corporate and Politic created by the afore-
said Act, under the name of the Harbour Commissioners of
Montreal, shall be continued by this Act under the same
name, and shall continue to have power to hold, take and
purchase immovable property for the purposes of this Act,
and to build, acquire, hold and possess such steamboats,
dredges, scows, and other vessels as it may deem necessary
for the efficient discharge of the duties devolved upon it by
this Act, and to take out registers for such vessels, in its
corporate name and capacity, and to dispose of the same as
well as of the said immovable property, as often as it may
see fit to do so, and to do all other things necessary to carry
out the provisions of this Act according to their true intent
and spirit.

Corporate
powers con-
tinued.

The corpora-
tion after 1st
July, 1855, to
consist of
three mem-
bers appoint-
ed by the
Crown, the
Mayor and
the President
of Board of
Trade.

IV. The said Corporation shall be constituted from and
after the passing of this Act, as follows, that is to say: It
shall be composed of five Members three of whom shall be
appointed by the Governor as heretofore, and shall hold
their appointments during pleasure, and the Mayor of the
City of Montreal and the President of the Board of Trade for
the time then being, shall be the other two Members; and
if the President of the Board of Trade be at the same time
Mayor of the said city, the Vice-President of the said
Board shall be one of the Members of the said Cor-
poration so long as the President shall be Mayor, but no
longer; and if any one of the Commissioners appointed by
the Governor be elected President of the Board of Trade,
the Vice-President of the said Board of Trade shall be one
of the Members of the said Corporation so long as the Com-
missioner so appointed shall continue to act as President
of the Board of Trade, but no longer.

Harbour of
Montreal de-
fined.

V. The Harbour of Montreal, which shall be under the
control and management of the said Corporation, shall be
bounded as follows, that is to say: "Commencing at the
"mouth of the Little River St. Pierre, thence downwards
"following the course of the bank of the River St. Law-
"rence and including the Beach of the said River as far
"back as high water mark and the ground above high water
"mark reserved for a public road or path, down to the
"lower extremity of the lower basin of the Lachine Canal;
"thence downwards, following the north-west side of the
"water course running parallel with and adjoining
"the revetment wall in the street or highway running
"along the whole line of the wharves now known as Com-
"missioners Street, to a point where the said wall joins the
"Government works at the Commissariat store and the

“ Government wharf; thence, downwards, following the course of the bank of the River St. Lawrence and including the beach of the said river as far back as high water mark, and any ground above high water mark reserved for a public road or path, as far as Ruisseau Migeon.”

VI. So much of the Act of the Legislature of Canada passed in the twelfth year of Her present Majesty's Reign, chaptered one hundred and seventeen, and intituled. *An Act to repeal a certain Act and Ordinance therein mentioned, relating to the Trinity House at Montreal, and to amend and consolidate the provisions thereof*, as was repealed by the aforesaid Act passed in the sixteenth year of Her Majesty's Reign and chaptered twenty-four, shall continue to be and remain repealed. Part of 12 V., c. 117 repealed by 16 V., c. 24, to remain repealed.

VII. The said Corporation of the Harbour Commissioners of Montreal shall, for the purposes of this Act, have power and authority to make By-laws not repugnant to the laws of this Province or to the provisions of this Act, and to impose penalties under the same, not exceeding five pounds currency, or sixty days imprisonment, against all persons who may infringe the same, and to revoke, alter and amend such By-laws as often as they may deem the same expedient, and the purposes of this Act shall be construed and defined to be : Corporation to make by-laws for certain purposes. Fines and imprisonment under such by-laws.

The direction, conduct and government of the said Corporation and of its property, real and personal; Management of property.

The good government, improvement and regulation of the Harbour throughout the year; Government of harbour.

The preventing injury thereto and encroachments and incumbrances thereon, and the removal of the same; Preventing injury.

The anchoring, mooring, riding and fastening of all vessels therein, and the ordering of the same, while lying in the stream or at any wharf or other landing place or beach therein; Placing vessels.

The regulation and control of the use of light and fire on board of vessels when lying anywhere within the limits thereof; Lights and fires.

The regulation and control of the landing and shipping of gunpowder therein; also of the manner of boiling and melting pitch, tar, turpentine, rosin or any other inflammable substance therein; also the maintaining order and regularity and the prevention of thefts and other depredations therein; also the collection of all dues and penalties imposed by or under the authority of this Act; Landing gunpowder, melting pitch, &c.

And finally, the doing of everything necessary to carry out the provisions of this Act according to their intent and spirit: Provided always, that no By-law made by the said Corporation, shall have force or effect until sanctioned by the Governor and published in the *Canada Gazette*. General purposes. Proviso.

Proof of by-laws.

VIII. Copies of any such By-laws certified by the Secretary under the Seal of said Corporation, shall be admitted as full and sufficient evidence of the same, in all Courts of Law or Equity in Canada.

Appointing and paying officers and servants.

IX. It shall be lawful for the said Corporation to appoint such officers, assistants and servants as may be deemed necessary to carry out the objects and provisions of this Act, and to allow them such compensation or salaries as may be deemed fitting, and to require and take from them such security for the due and faithful performance of their respective duties as may be deemed necessary.

Recovering of harbour dues and penalties.

X. All dues and penalties imposed by this Act or by any By-law made under the authority thereof or any By-law previously made, may be recovered by civil action or proceeding at the suit of the said Corporation before any one or more Magistrates in any place in this Province, in a summary manner, and on the oath of one credible witness; and any member of the said Corporation or any of its officers or servants may be such witness.

Harbour dues to be those mentioned in the schedule.

XI. It shall be lawful for the said Corporation to levy upon all vessels entering or departing from the said Harbour, or being at anchor or otherwise moored therein, and upon all goods landed or shipped or deposited therein, except arms, ammunition and military accoutrements, and other munitions of war for the use of the Government of this Province or for its defence, and also vessels wholly laden therewith, the several rates and dues mentioned in the Schedules appended to this Act: Provided however, that goods landed shall pay only the landing dues, and goods shipped shall pay only the outward dues, and that goods transhipped from one vessel to another within the Harbour, without being landed, shall pay only the landing or shipping rates, as may be settled by the By-laws of the said Corporation: Provided also, that goods landed within the Harbour and shipped, shall be liable for both landing and shipping dues, unless otherwise ordered by the By-laws of the Corporation.

Proviso.

Proviso.

By whom payable: on sea-going vessels.

XII. The said rates and dues shall be levied as follows:—

1. On sea-going vessels,—The tonnage dues thereon shall be levied from the master or person in charge thereof, and the wharfrage rates on goods landed or shipped shall be levied from the consignee, shipper, owner or agent thereof;

On other vessels.

2. On all other vessels,—The tonnage dues thereon, as well as the wharfrage rates upon the cargoes, shall be paid by the master or person in charge thereof, saving to him such recourse as he may have by law against any other person for the recovery of the sums so paid: Provided however, that it shall be lawful for the said Corporation to demand

and recover the said wharfage rates from the owners or consignees, or agents or shippers of such cargoes, if they see fit to do so.

XIII. In case of the non-payment of the said dues or rates, or any part thereof, it shall be lawful for the said Corporation to seize forthwith before judgment, any vessel or goods whatsoever upon which such dues may be owing, and to detain the same at the risk, cost and charges of the owner, until the sum due and the costs and charges incurred for the seizure and detention of the same be paid in full.

Seizure of vessels and goods for non-payment of dues.

XIV. Such seizure may be effected upon the order of any Judge or of any Magistrate for the District of Montreal, or upon the order of the Collector of Customs at the Port of Montreal (which order such Judge, Magistrate or Collector aforesaid is hereby authorized and required to give, upon the application of the said Corporation or its authorized agent, on the affidavit of any one credible person that any sum is due to the Corporation for the rates or dues aforesaid), and such order may and shall be executed by any Constable, Bailiff or other person whom the said Corporation may choose to entrust with the execution thereof, and the said Constable, Bailiff or other person is hereby authorized and empowered to take all necessary means and to demand all necessary aid to enable him to execute the same.

How such seizure may be effected.

XV. It shall be lawful for the said Corporation to require the Collector of Customs at the Port of Montreal, to collect such portion of the aforesaid rates and dues on its behalf, as it may be deemed expedient for the convenience of the trade of the Harbour to collect through him.

Collector of Customs to collect dues if required.

XVI. It shall be lawful for the said Corporation to require from the master or person in charge of any vessel in the said Harbour, a report in writing, signed and certified by him, of his vessel's cargo inwards and her draft of water before he shall break bulk, also of her outward cargo and draft of water before his vessel shall leave the Harbour, and such other particulars as may be necessary to carry out the provisions of this Act; and it shall also be lawful for the said Corporation or its authorized agent to require the master or person in charge of such vessel, to exhibit unto them the bills of lading, cargo book, or such other vouchers of the said cargoes as may be deemed necessary by them to arrive at an exact account of such cargoes; and in case of refusal or neglect to make such reports and to exhibit the bills of lading, cargo book or other vouchers, it shall be lawful for the said Corporation or its authorized agent to seize and detain such vessel at the risk, cost, and charges of the master or person in charge thereof, until the aforesaid requirements are complied with: Provided always, that nothing herein contained shall prevent the said Corporation from making

Masters of vessels may be required to make certain reports.

Penalty for refusal or neglect to make such report.

Proviso.

Corporation
may agree
with masters
of steamboats.

Proviso: for
further agree-
ment.

How goods on
which the
dues are *ad
valorem* shall
be valued.

Customs ap-
praiser to
value.

Lower basin
of canal to be
deemed part
of harbour.

Proviso.

Vessels to be
conspicuously
numbered.

such mutual agreement with the masters, owners or agents of steamboats and other vessels plying between Montreal and any other place in the River St. Lawrence with respect to making such reports, and the payment of all Harbour and other dues imposed by this Act as may be considered expedient; and provided also, that nothing herein contained shall be construed to prevent the said Corporation from commuting with such masters, owners or agents of steamboats and other vessels plying between Montreal and any other place in the River St. Lawrence, for all dues accruing thereon under this Act, on such terms and conditions and for such sum or sums of money as to the said Corporation may seem fit and expedient.

XVII. The valuation on goods on which *ad valorem* rates of Wharfage are imposed by this Act, shall be made according to the provisions contained in the Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to amend the law relative to duties of Customs*, or in any Act which may have been or may hereafter be substituted in lieu thereof for the collection of the said duties; and the provisions of the Act or Acts aforesaid shall, for the purposes of such valuation of goods, be held and considered to form part of the Act, as if the said provisions were actually embodied herein; and it shall be the duty of the Collector of Customs at Montreal to direct the Appraiser at the said Port to attend and make such valuation at any place and time needful, on application being made to him to that effect by the said Corporation or its authorized agent, and the said Appraiser shall act herein without taking any new oath of office for the purpose.

XVIII. For the purposes of this Act, the Lower Basin of the Lachine Canal shall be held to form part of the Harbour of Montreal, and it shall be lawful for the said Corporation to levy from all vessels entering the same through the Harbour for the purpose of discharging or loading there, the same rates and dues as may be levied in the Harbour under this Act, and under the same regulations and penalties: Provided however, that this shall not be held to apply to canal craft trading between Montreal and places above the same; and also that in all other respects the said Lower Basin shall be and remain under the jurisdiction of the Commissioner of Public Works.

XIX. It shall be lawful for the said Corporation to require all Vessels in the said Harbour to have a name or number painted conspicuously on some suitable part thereof, and if the Master or person in charge of any such vessel shall neglect to put such name or number thereon, for twenty-four hours after being required by any authorized Agent of the said Corporation to do so, he shall thereby incur a penalty

of not exceeding five pounds for each and every offence ; and it shall then be lawful for the said Corporation to put a name or number on such vessel, and the Master or person in charge thereof shall incur an additional penalty of not exceeding five pounds if he remove or deface such name or number, or permit the same to be removed or defaced, and for the aforesaid penalties as well as all other penalties imposed under or by virtue of this Act, it shall be lawful for the said Corporation to seize the Vessel or Goods belonging to or in charge of the person upon whom such penalty may be imposed, and to detain the same at the risk of such person until such penalty, together with the costs and charges attendant upon such detention, shall be paid in full.

Penalty for default.

And corporation may then print numbers on them.

Enforcing penalty.

XX. If any injury shall be done to any of the Wharves, Piers, or other works in the said Harbour, constructed or to be constructed, by any vessel, or by the carelessness or wantonness of the crew thereof, while in the execution of their duty or the orders of their superior officers, it shall be lawful for the said Corporation to seize such vessel and detain her until the injury so done shall have been repaired by the Master or crew, or until security shall have been given by the said Master to pay such amount for the injury and costs as may be awarded in any suit which may be brought against him for the same, and he is hereby declared to be liable to the said Corporation for any such injury.

Vessels may be seized for injury done to wharves, &c.

XXI. For the purpose of extending and improving the Wharves and other accommodations in the said Harbour, and the construction of Docks in Hochelaga Bay, or for either of the said purposes, it shall be lawful for the said Corporation to borrow, in such sums and for such number of years and at such rates of interest, not exceeding eight per cent. per annum, as may be found expedient, any sum or sums of money not exceeding in the whole the sum of one hundred thousand pounds sterling at par, in sterling or in currency, and either in this Province or elsewhere, and to expend the same in the said Harbour, in such manner as may be deemed best calculated to promote the commerce and interests of the City of Montreal.

Corporation may borrow £100,000 for improving harbour.

XXII. The interest upon the sums of money which may be borrowed under the next preceding section, as well as upon all sums already borrowed for the improvement of the said Harbour, shall be paid out of the revenue arising from the dues, rates and penalties imposed by or under this Act for and on account of the said Harbour ; and the lawful charges upon the said revenue shall be as follows and in the following order, that is to say :

Interest to be paid out of harbour dues, penalties, &c.

Order of charges on harbour revenues.

1. The payment of all expenses incurred in the collection of the same, and other indispensable charges ;

2. The defraying of the expenses attendant on keeping the Harbour clean, and on keeping the Wharves and other works therein in a thorough state of repair ;

3. The payment of interest due on all sums of money borrowed under this or previous Acts of Parliament, without priority or preference ;

4. The paying off the principal of temporary loans.

Corporation may borrow £100,000 for completing a channel from Quebec to Montreal not less than 20 feet deep.

XXIII. For the purpose of enabling the said Corporation to carry on the improvements begun in the Ship Channel in Lake St. Peter and in the River St. Lawrence, and to complete the same to a depth of not less than twenty feet at low water throughout the said Channel between Montreal and Quebec, it shall be lawful for the said Corporation to borrow under the authority of this Act, in such sums and at such rates of interest not exceeding eight per cent. per annum, and for such number of years as may be found expedient, any sum or sums of money not exceeding in the whole the sum of one hundred thousand pounds sterling, at par, in currency or in sterling, and in this Province or elsewhere, and to expend the same in such manner as may be deemed best for the purpose of obtaining the Ship Channel aforesaid with a depth at all times of not less of twenty feet of water therein.

Interest and sinking fund, how to be provided for.

XXIV. The interest upon any sums of money borrowed under the next preceding section, as well as upon all sums of money borrowed for the same purpose under preceding Acts of Parliament, shall be provided for as follows, without priority or preference, and the sinking fund hereinafter mentioned shall also be provided out of the same funds :

Tonnage duty for paying such interest, &c.

1. Out of a tonnage duty of not exceeding one shilling per ton, register tonnage, which it shall be lawful for the said Corporation to impose and levy upon all vessels drawing upwards of eleven feet of water navigating the said Ship Channel, such duty to be payable for each time of passing through the said Channel ; and it shall be lawful for the Corporation to require the Collectors of Customs at Montreal or Quebec, to collect such duty on their behalf, and to pay over the amount collected to the Corporation at such times as may be appointed : and such tonnage duty may be collected and recovered and payment thereof enforced in the same manner as is provided by this Act for Harbour dues ; and no vessel upon which such duty shall be payable shall be entered or cleared at the Port of Montreal, or cleared at the Port of Quebec if she has left Montreal without being cleared, until the Collector or other officer granting such clearance shall be satisfied that such duty has been paid ;

How to be collected.

Further fund.

2. Out of any surplus Revenue that may remain in the hands of the said Corporation from Harbour dues, after

defraying out of the same all the charges mentioned in section twenty-two of this Act.

XXV. If all the imposts mentioned in this Act should prove insufficient to enable the said Corporation to meet the charges upon its revenue as provided by this Act, and the sinking fund hereinafter mentioned, it shall then be lawful for the Governor, on report of the Corporation to that effect, to add such percentage to all dues whatsoever imposed by this Act, as will in his judgment afford the said Corporation a sufficient revenue for the said purposes as well as to form a sinking fund to pay off the sums of money borrowed or to be borrowed for the purpose of deepening and improving the said Ship Channel, which sinking fund shall be not less than two per cent. per annum upon the sums borrowed, and shall be managed and invested as the Governor shall from time to time direct.

If the dues imposed for meeting charges under this Act be insufficient, the Governor may increase them.

XXVI. It shall be lawful for the Governor in Council to waive or remit all duties of Customs on any articles or merchandize whatsoever imported by the said Corporation for the purposes of this Act, but not for private use or profit, on application being made to him to the said effect by the Corporation.

Governor in Council may remit duties on articles imported for corporation.

XXVII. For the purposes of this Act it shall be lawful for the Commissioners of Public Works to place at the disposal of the said Corporation any vessels, machinery or tools in their possession which may have been acquired by the said Commissioners of Public Works for the purpose of deepening a Channel for Ships in Lake St. Peter, and also to pay over to the Corporation any unexpended balance of money which may be in their hands or in the hands of the Receiver General of the Province, of the moneys which have been heretofore appropriated by Parliament for the said purpose.

Commissioners of Public Works to hand over certain machinery and money to corporation.

XXVIII. For the purposes of this Act the said Corporation shall have the same rights and powers in conducting its operations in Lake St. Peter and the River St. Lawrence, as the Commissioners of Public Works would have if the works were conducted under their direction and control, and shall also have power to make such By-laws concerning vessels navigating the improved Ship Channel as may be required therefor, not inconsistent with the general laws of this Province; anything in any law to the contrary notwithstanding.

Corporation to have the powers of Board of Works as regards the said ship channel.

XXIX. It shall be lawful for the said Corporation at any time to borrow money under this Act, for the purpose of paying off sums already borrowed for which Debentures have been or may be issued; Provided always, that the sums thus borrowed shall never in any case exceed the sums

May borrow money to pay off debentures. Proviso.

to be paid off, and shall not be applied to any other purpose whatsoever.

May acquire
land for
works at
Hochelaga.

XXX. It shall be lawful for the said Corporation to acquire such real estate at Hochelaga as may be considered necessary for the purpose of constructing Docks and Warehouses there, in connection with the Harbour of Montreal.

The price of
such land to
be determined
by arbitration
in case of dis-
agreement.

XXXI. Whenever the said Corporation shall desire to acquire land for the aforesaid purpose or for any other purpose provided for by this Act, and an amicable arrangement with the proprietor shall not take place, the price to be paid for such land shall be determined as follows: The said Corporation and the proprietor shall each appoint a disinterested Arbitrator, and the two Arbitrators shall name a third also disinterested, and the three Arbitrators after being sworn by or before any Judge or Justice of the Peace, to fulfil their duty honestly and impartially, and having reciprocally given notice of the time and place of their meeting, shall determine the price to be paid by the said Corporation for such land, and their decision shall be final: Provided however, that if the proprietor aforesaid shall after being notified and thereunto required by the said Corporation, refuse or neglect to appoint an Arbitrator as aforesaid, or if the two Arbitrators appointed by the two parties interested shall not agree upon a third, then one of the Judges of the Superior Court shall name an Arbitrator for the proprietor, or the third Arbitrator, as the case may require; Provided further, that in case of the death of an Arbitrator or his refusal to act, the party who shall have appointed him, or the Judge, as the case may be, may appoint another in his place; and the three Arbitrators being respectively sworn by any Judge or Justice of the Peace, shall decide finally on the price to be paid by the said Corporation for the land.

Proviso.

Proviso.

Award to be
final.

Corporation
may take the
land on pay-
ing the com-
pensation,
and may clear
the land of
charges by
paying the
price into
court, &c.

XXXII. When the Arbitrators aforesaid shall have determined the price of any land, the said Corporation may take the same and become proprietor thereof by paying the price so fixed either to the proprietor or into the hands of the Prothonotary of the Superior Court at Montreal for the proprietor; and the price agreed upon or awarded for any land taken or kept by the said Corporation shall be in the place and stead of the land, and all claims to or upon the land shall be converted into claims to or upon such price, and if the Corporation have reason to apprehend that any claims may exist to or upon the price on the part of any third party, it may pay such price into the hands of the Prothonotary of the Superior Court at Montreal, filing at the same time a copy of the deed of purchase or of the award, and the Court after having caused due notice to be given for the calling in of all claimants, shall make such

order for the distribution of the price as well as of the interest thereof, and as to costs, as to law may appertain.

XXXIII. The said Corporation shall keep separate accounts of all moneys borrowed, received and expended by it under the authority of this Act, and shall account for the same annually to the Governor, in such manner and form as he may see fit to direct; but the Provincial Guarantee shall not be given for the payment of either principal or interest of any sum borrowed under this Act, nor shall the Province be in any way responsible therefor.

Certain accounts to be kept by corporation.

No provincial guarantee.

XXXIV. The members, officers and servants of the said Corporation shall be exempt from serving on juries or inquests whatsoever, or as assessors or constables.

Members, &c., of corporation exempt as jurors, &c.

XXXV. The words "By-laws," "Vessels," "Goods" and "Dues" in the provisions of this Act, shall severally be construed to mean and shall mean as follows: The word "By-laws" shall mean and include all By-laws, Rules, Orders and Regulations made by the said Corporation; the words "Vessel" or "Vessels" shall mean and include all Ships, Vessels, Boats, Barges, Steamboats, Scows, Rafts and floating Craft whatsoever; the word "Goods" shall mean and include all Merchandize, Wood, Animals, articles, and things whatsoever landed from a Vessel or deposited on the wharves for the purpose of being shipped or otherwise; the word "Dues" shall mean and include all Rates, Tolls, Duties and Dues whatsoever imposed by this Act.

Interpretation clause.

XXXVI. This Act shall be a public Act.

Public Act.

Tariff (Schedules A, B, C, D, E, F and G) is repealed by 36 V, c. 61, s. 27.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



20 VIC., CHAP. 126.

An Act to amend the Act to provide for the management and improvement of the Harbour of Montreal and the deepening of the Ship Channel between Montreal and Quebec.

(Assented to, 10th June, 1857.)

Preamble.

18 V., c. 143.

WHEREAS defects have been found to exist in the details of the Act eighteenth Victoria, Chapter one hundred and forty-three, for the management and improvement of the Harbour of Montreal and the deepening of the Ship Channel between the said Harbour and the Port of Quebec, which in some respects diminish its efficiency for the purposes therein contemplated, and it is expedient to amend the same: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Commissioners to make by-laws for the control over the ice in the harbour in winter.

For allotting berths to vessels, &c.

Regulating powers of the harbour master.

Penalties.

Power to imprison persons infringing by-

I. In addition to the purposes which are in and by the said Act declared to be the purposes for which the Corporation of the Harbour Commissioners of Montreal may make By-laws under its provisions, the said Corporation shall have power also to make By-laws for the control of the ice in the said Harbour in the Winter season, and of the cutting the same and of the deposit upon the same of any substance or matter whatever, and of the situation and boundaries of any roads thereon; and also for the allotment of berths in the said Harbour to any Steamer or other vessel, or to any regular line of Steamers, or other Vessels either on each trip of such Steamer or other vessel, or for the whole business season; and also for the allotting, letting or leasing any lot or lots, space or spaces, or portions of the wharves or piers, or vacant ground in the said Harbour, or any of them; and also for regulating the powers of the Harbour Master of the said Harbour in respect of the enforcement of his lawful directions and orders in the said Harbour, and in respect of the necessary force, aid or assistance by him required for that purpose; and to impose penalties for the infringement of such By-laws, in the manner and to the extent, and subject to the restrictions fixed by the said Act and by this Act.

II. From and after the passing of this Act, the said Corporation of the Harbour Commissioners of Montreal,

shall have power and authority in the By-laws to be by them made under the authority of the said Act and of this Act, to provide, that any person who shall be convicted of infringing any of such By-laws, or any of the provisions of the said Act or of this Act, and who shall be condemned to the payment of any pecuniary penalty for such infringement, and who shall make default in the payment of such pecuniary penalty, and of the costs of such conviction, may be imprisoned for a period to be fixed by the said By-laws but not to exceed thirty days, unless the amount of such penalty and costs be sooner paid, the said powers to be in addition to the powers granted by the seventh section of the said Act.

laws and not paying the penalty.

III. All By-laws from time to time made by the said Corporation under the provisions of the said Act or of this Act, upon being sanctioned by the Governor and published in the *Canada Gazette* as provided in the said Act, shall become and be law, and shall have the same force and effect as if specifically enacted in and forming part of the said Act or of this Act.

By-laws sanctioned by the Governor to have the force of law.

IV. In every case wherein the master, owner or person in charge of any vessel or goods shall infringe any of the By-laws of the said Corporation, or any of the provisions of the said Act or of this Act, and shall thereby render himself liable to a penalty, such vessel or goods may be forthwith seized by the said Corporation before judgment and may be detained at the risk, cost and charges of the owner until the penalty so incurred and the costs and charges incurred in the seizure and detention of the same, and the costs of any conviction that may be obtained for such infraction be paid in full.

Seizure of vessel or goods before judgment for infraction of by-laws

V. In every case wherein under the said Act, or under this Act, the said Corporation or its authorized agent is empowered to seize, or to seize and detain any vessel or goods, such seizure and detention may be effected upon the order of any Magistrate for the District of Montreal, or for the District of Quebec, or for the District of Three Rivers, or of the Collector of Customs at either of the Ports of Montreal or Quebec; and such Magistrates and Collectors respectively, are hereby authorized to give such order, upon the application of the said Corporation, or of its authorized agent, or of its attorney or solicitor, on the affidavit of any one credible person, that any sum is due to the said Corporation for any tolls, rates or dues whatever, or that any penalty has been incurred under the By-laws of the said Corporation, or under the provisions of the said Act or of this Act, by the master, owner or person in charge of the said vessel or goods, or that the provisions of the said Act or of this Act have been infringed by any vessel, or by

How seizure may be authorized and upon what evidence, &c.

When the seizure may take place.

the master, owner or person in charge thereof, or by the owner or person in charge of any goods, stating the particulars of such infringement, and such seizure and detention may take place either at the commencement of any action or proceeding for the recovery of any dues, penalties or damages, or pending such action or proceeding, as an incident thereto, or without the institution of any action or proceeding whatever.

Provisions of section 10 of 18 V., c. 143, to apply to this Act, and to by-laws made under it.

Service of process.

Description of defendant.

VI. The provisions of the tenth section of the said Act regulating the recovery of dues and penalties and the competency and sufficiency of witnesses, shall apply to this Act and to the By-laws made under the authority of this Act, to the same extent as if contained herein; and the service of any Writ of Summons, Warrant or Notice which may be required by law or by the practice of any Court of Justice to be made upon the master, owner or person in charge of any vessel whatever, shall be held to be well and validly made, if a duplicate or copy or original of such Writ, Warrant or Notice, as the case may be, is delivered to any grown person on board of such vessel, for the master, owner or person in charge thereof; and in any action or proceeding by the said Corporation, the defendant shall be held to be sufficiently described by the mention of his surname only; and any plea in abatement, *exception à la forme*, or other preliminary plea filed by the defendant shall be summarily disposed of.

Special lien on the vessel for penalties, rates and dues.

Seizure and sale of vessel.

Proviso: time for seizure limited.

VII. The said Corporation shall have a special privilege upon any vessel and upon the proceeds thereof, by preference to all other claims and demands whatsoever, for the payment of all or any penalties, rates and dues, due and payable in respect of such vessel, or of the acts of the master, owner or person in charge thereof, and of all commutation of rates or dues; and any such vessel may be seized and sold under any Writ or Warrant of execution, or of distress issued by any Court or by any Magistrate, upon any judgment or conviction at the suit of the said Corporation against the master, owner or person in charge thereof; and the said Corporation may seize and detain such vessel, or such vessel may be seized and sold, in manner aforesaid in the possession or charge of any person whatever, whether in the charge or possession or the property of the person who was proprietor, when such penalties, rates or dues or commutation thereof accrued, or in the charge or possession or the property of a third person or persons; Provided always, that the rights conferred by this section be exercised within three months from the period when such penalty or penalties, rates, dues or the commutation thereof shall have accrued and become exigible.

VIII. From and after the passing of this Act the master or person in charge of every vessel in the said Harbour shall make the reports, exhibit the bills of lading, cargo book, or other vouchers mentioned in the sixteenth section of the said Act, and conform himself to all the provisions of the said section, and shall make such report at the office of the Wharfinger of the said Harbour, the whole within the time mentioned in the said section; and in default thereof shall be, and such vessel shall be, subject to all the pains and penalties in the said section mentioned, and to the further penalty of five pounds currency for every twenty-four hours that shall elapse after the arrival of such vessel in the said Harbour until such report shall be so made, and such bills of lading, cargo book, and other vouchers exhibited; the whole without any notice, demand or requirement on the part of the said Corporation so to do; and the master or person in charge of every vessel in the said Harbour shall be bound, under the penalties in the nineteenth section of the said Act mentioned, to conform to the provisions of the said nineteenth section without being notified or required by the said Corporation so to do.

Master or person in charge of any vessel to make report at the office of the wharfinger, in the manner required by section 16 of 18 V., c. 143.

IX. It shall be lawful for the said Commissioners, in the exercise of their duties in the improvement of the navigation between Montreal and Quebec, to place buoys or other floating marks for all purposes connected with the works by them carried on, and to be carried on under the powers previously granted to them, at such points or places in the River St. Lawrence and in Lake St. Peter as to them may seem needful and expedient, which buoys or floating marks all masters and owners of vessels or rafts shall avoid and keep clear of at their own proper risk and peril: Provided always, that such buoys or floating marks shall be so placed as to obstruct the navigation of the said River and Lake in as slight a degree as is consistent with the use for which they or any of them are intended.

The Commissioners may place buoys in the River and Lake St. Peter.

Proviso.

X. If any injury be done to any of the quays, buoys, floating stock, steamers, or dredging vessels of the said Corporation, used in the said Harbour, or in the said River St. Lawrence between Montreal and Quebec, or any obstruction whatever offered or made to the operations of the said Corporation in the said River between the said places, by any ships or vessels, or by the carelessness or wantonness of the crew thereof, while in the execution of their duty, or of the orders of their superior officers, it shall be lawful for the said Corporation to seize any such ship or vessel and detain her until the injury so done shall have been repaired by the master or crew, or until security shall have been given by the said master to pay such amount for injury and costs, as may be awarded in any suit which may be

Corporation may seize vessel doing injury to the works.

brought against him for the same, and he is hereby declared to be liable to the said Corporation for any such injury.

XI.

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Inconsistent enactments repealed.

XII. So much of the said Act as is inconsistent with the enactments contained in this Act is hereby repealed.

Commissioners declared to have a right to erect a certain gallery or passage over Capital street.

XIII. Doubts having arisen as to the right of the said Harbour Commissioners to erect the gallery or passage over Capital Street in Montreal aforesaid, now existing, and of the sufficiency of the sanction given for such erection by the Corporation of Montreal, the said Harbour Commissioners are hereby authorized and empowered to retain the said gallery or passage as the same now is, and in the event of its destruction by accident or otherwise to replace it by a similar construction if they see fit; Provided always, that nothing herein contained shall take away the right of any person to claim damages in a civil action for any injury sustained in consequence of the erection of such gallery.

Proviso :
But see also
cap. 127 of this
Session.

Interpretation.

XIV. The Interpretation Act shall apply to this Act.

Public Act.

XV. This Act shall be a Public Act.

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20 VIC., CHAP. 127.

An Act to correct an error in an Act of the present Session relative to the Harbour and Harbour Commissioners of Montreal.

[Assented to 10th June, 1857.]

WHEREAS it appears that an error has crept into the Act Preamble. of the present Session hereinafter mentioned, and that injustice would be done if the same were not corrected: for remedy thereof, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. That for and notwithstanding anything in the Act passed in the present Session, and intituled, *An Act to amend the Act to provide for the management and improvement of the Harbour of Montreal, and the deepening of the Ship Channel between Montreal and Quebec*, the Harbour Commissioners of Montreal shall not by virtue of the thirteenth section of the said Act, or any other part thereof, have any better or greater right to erect, retain or replace the gallery or passage over Capital Street in the City of Montreal, mentioned in the said Section, than they had before the passing of the said Act, or than they would have had if the said thirteenth section had not formed part thereof.

Rights of the Commission-
ets to erect or
retain a cer-
tain gallery,
to be as it
cap. 126 of
this session
had not been
passed.

II. This Act shall be deemed a Public Act.

Public Act.

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20 VIC., CHAP. 128.

An Act to amend an Act intituled, *An Act to repeal a certain Act and Ordinance therein mentioned, relating to the Trinity House of Montreal, and to amend and consolidate the provisions thereof*, and to make further provisions concerning Pilots.

[Assented to 10th June, 1857.]

Preamble.

WHEREAS it is expedient to amend the Act cited in the title of this Act, and to make provision respecting Pilots: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Trinity House may make a new tariff of rates of pilotage between Quebec and Montreal, which being approved by the Governor in Council shall be valid.

I. The Master, Deputy Master and Wardens of the Trinity House of Montreal assembled under the said Act, shall have full power and authority to make a By-law establishing a new Tariff of rates to be paid for the pilotage of vessels between Quebec and Montreal, and between the several places mentioned in the twenty-third section of the said Act, distinguishing the rates upwards from the rates downwards, and the rates payable when the vessel is towed by a steamer or propelled by steam from the rates payable when the vessel is not towed or propelled by steam; and such By-law being approved by the Governor in Council, shall have full force and effect at law, but may be repealed or altered by any By-law to be thereafter made and approved in like manner; and whenever any such By-law shall be in force the Tariff of rates of pilotage established by the said twenty-third section shall be repealed, and the penalty imposed by the said section on persons demanding, soliciting, receiving, paying or offering higher rates of pilotage than those mentioned in the said section, shall be incurred by any person demanding, soliciting, receiving, paying or offering greater rates than those fixed by any such By-law then in force, and may be imposed and levied in like manner as other penalties imposed by or under the said Act.

Penalty for receiving or paying higher rates.

Pilots once engaged must be paid.

II. Whenever a pilot shall have been engaged by the master or captain of a vessel, he shall be paid, although prevented by the said master or captain of such vessel or his representatives from accomplishing his engagement, except in cases where the Captain of the vessel shall make

Exception.

a complaint against him, and shall establish the truth thereof against such Pilot.

III. An appeal to the Superior Court shall be allowed to pilots, when they shall be condemned to the payment of fines exceeding ten pounds currency, within the fifteen days immediately following such condemnation, upon notice duly given within the said period of fifteen days to the Trinity House of Montreal, and upon security being given for all costs incurred and to be incurred in the said proceeding, before any one of the Judges of the said Superior Court for the District of Montreal or the Prothonotary of the said Court; provided that such appeal be supported by a petition setting forth the reasons, causes and motives of appeal from the original judgment; and such appeal shall be heard during the first juridical days of such Court, and the said Court after hearing the said appeal shall give such judgment therein as to them shall seem meet; and provided that all the proceedings, documents and evidence filed and adduced in the original proceedings before the Corporation of the said Trinity House, shall be and remain of record, and as such shall be preserved, and recourse shall be had thereto on the occasion of the said appeal.

Appeal granted to pilots; and upon what conditions and in what cases.

Evidence before Trinity House to be preserved.

IV. Any pilot engaged and on duty who shall be detained by reason that the vessel is discharging powder, shall receive a compensation of fifteen shillings for every day he shall be so detained, over and above the rates of pilotage: Provided that any such pilot may be discharged by the master or captain of such vessel, as though he had piloted the said vessel to its destination.

Pilots detained must be paid.

Proviso

V. Whenever a vessel shall be towed by a steamer, the pilot having the pilotage of such vessel shall only be bound to remain on board such vessel, after having moored it firmly and in the ordinary manner, for a period of twenty-four hours, instead of forty hours as prescribed by the By-laws at present existing.

Pilots need only remain 24 hours on board after mooring, &c.

VI. All the provisions of the Act above cited which may be inconsistent with this Act, are hereby repealed.

Inconsistent enactments repealed.

VII. This Act shall be deemed a Public Act.

Public Act.



22 VIC., CHAP. 12.

An Act to confer additional powers on the Trinity House of Montreal.

[Assented to 30th June, 1858.]

Preamble.
12 V., c. 117.

WHEREAS in an Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to repeal a certain Act and Ordinance therein mentioned relating to the Trinity House at Montreal, and to amend and consolidate the provisions thereof*, no provision has been made for the disposal of effects found in the River St. Lawrence, within the Port of Montreal; and whereas it is desirable to invest the Trinity House of Montreal with the same powers in relation to effects so found as are given to the Trinity House of Quebec with respect to such effects: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Notice to be given to the Trinity House by persons finding effects within its jurisdiction.

1. Every person finding any effects or thing in the River St. Lawrence or on the beach thereof, or in any part of the Rivers running into the same, within the Port of Montreal shall, within four days, if the same be found within the Harbour of Montreal, and within fifteen days if the same be found within any other part of the Port of Montreal, give notice thereof to the Registrar and Treasurer of the Trinity House of Montreal, under a penalty not exceeding ten pounds and shall give him a description of the thing found; if in the meantime, the master or owner claims the same he shall pay to the finder for his trouble a fair remuneration, to be fixed by the Trinity House of Montreal, when the parties cannot agree upon it.

Party claiming to pay a remuneration to be fixed by Trinity House.

Effects not claimed to be advertised.

2. When anything found in the River St. Lawrence within the above limits has not been claimed, the Registrar and Treasurer may advertise it during four weeks, in English and in French, in two or more newspapers published at Montreal, and if within one month after such publication the same be not claimed, the said Registrar and Treasurer shall sell the same publicly, and after deducting the expenses of advertising, sale or otherwise, two-thirds of the proceeds of the sale shall belong to the finder, and the remaining third to the Trinity House of Montreal.

And sold if not claimed.

3. This Act shall be construed as if its provisions made part of the Act above cited, and all the words and expressions used in this Act shall be held to have the same meaning that they have in the said Act, and all the provisions of the said Act, with regard to the penalties imposed by it, shall apply to the penalties imposed by this Act, which shall be deemed a Public Act.

Interpretation of this Act.

Public Act.

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CONSOLIDATED STATUTES OF CANADA.

1859.

CHAP. V.

An Act respecting the Provincial Statutes.

HER Majesty, by and with the advice and consent or the Legislative Council and Assembly of Canada, enacts as follows:—

FORM OF ENACTING.

Former enact-
ing clause to
be disused.;

1. The following words, formerly inserted in the Preamble of Statutes and indicating the authority by virtue of which they are passed: “Be it therefore enacted by the “Queen’s Most Excellent Majesty, by and with the advice “and consent of the Legislative Council and of the Legisla- “tive Assembly of the Province of Canada, constituted and “assembled by virtue of and under the authority of an Act “passed in the Parliament of the United Kingdom of Great “Britain and Ireland, and intituled, *An Act to re-unite the “Provinces of Upper and Lower Canada, and for the Govern- “ment of Canada*, and it is hereby enacted by the autho- “rity of the same, as follows:” having been disused and replaced by the words following, “Her Majesty, by and “with the advice and consent of the Legislative Council “and Assembly of Canada, enacts as follows:” The said last mentioned form shall continue to be used. 18 V. c. 88, s. 1.

Another form
substituted.

Clauses to fol-
low in a con-
cise form.

2. After the insertion of the words aforesaid, which shall follow the setting forth of the considerations or reasons upon which the law is grounded, and which shall with these considerations or reasons constitute the entire Preamble, the various clauses of the Statute shall follow in a concise and enunciative form. 18 V., c. 88, s. 2.

INTERPRETATION.

To what Acts
the interpre-
tation clauses

3. This section and the fourth, fifth and sixth sections of this Act, and each provision thereof, shall extend

and apply to these Consolidated Statutes of Canada, and to every Act passed in the Session held in the twelfth year of Her Majesty's Reign, or in any subsequent or future Session of the Provincial Parliament, except in so far as the provision is inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause is inconsistent with the context,—and except in so far as any provision thereof is in any such Act declared not applicable thereto;—Nor shall the omission in any Act of a declaration that the “Interpretation Act” shall apply thereto, be construed to prevent its so applying, although such express declaration may be inserted in some other Act or Acts of the same Session. 12 V., c. 10, s. 1. of this Act shall apply.

4. The Clerk of the Legislative Council shall endorse on every Act of the Parliament of this Province, immediately after the title of such Act, the day, month and year when the same was by the Governor assented to in Her Majesty's name, or reserved the same for the signification of Her Majesty's pleasure thereon,—and in the latter case, he shall also endorse thereon the day, month and year when the Governor has signified either by speech or message to the Legislative Council and Assembly, or by proclamation, that the same was laid before Her Majesty in Council, and that Her Majesty was pleased to assent to the same;—And such indorsement shall be taken to be a part of such Act, and the date of such assent or signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement be therein provided. 12 V., c. 10, s. 2. Date of assent to be endorsed on every Act.

As to reserved Acts.

Effect of such indorsement.

5. Any Act of the Parliament of this Province may be amended, altered or repealed by any Act to be passed in the same Session thereof. 12 V., c. 10, s. 3. Acts may be amended, &c., during same Session.

6. Subject to the limitations aforesaid,—in every Act of the Parliament of this Province, to which this section applies:— Interpretation of certain words, &c., viz.:

First. The words “Her Majesty,” “the Queen,” or “the Crown,” shall mean—Her Majesty, Her Heirs and Successors, Sovereigns of the United Kingdom of Great Britain and Ireland; Her Majesty, &c.

Secondly. The words “Governor,” “Governor of this Province,” “Governor General,” or “Governor in Chief,” shall mean—the Governor, Lieutenant Governor, or person administering the Government of this Province for the time being; Governor, &c.

Thirdly. The words “Governor in Council,” shall mean—the Governor, Lieutenant Governor, or person administering the Government of this Province for the time being, acting by and with the advice of the Executive Council thereof; Governor in Council.

- Lower Canada. *Fourthly.* The words "Lower Canada," shall mean all that part of this Province which formerly constituted the Province of Lower Canada;
- Upper Canada. *Fifthly.* The words "Upper Canada" shall mean all that part of this Province which formerly constituted the Province of Upper Canada;
- United Kingdom. *Sixthly.* The words "the United Kingdom," shall mean the United Kingdom of Great Britain and Ireland;—and the words "the United States," shall mean the United States of America;—And generally, the name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, shall mean such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name be not the formal and extended designation thereof;
- Names of places, officers, &c.
- Number and gender. *Seventhly.* Words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse;
- Person. *Eighthly.* The word "person," shall include any body corporate or politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to the law of that part of the Province to which such context extends;
- Writing-written. *Ninthly.* The words "writing," "written," or any term of like import, shall include words printed, painted, engraved, lithographed, or otherwise traced or copied;
- Now—next. *Tenthly.* The word "now" or "next," shall be construed as having reference to the time when the Act was presented for the Royal Assent;
- Month. *Eleventhly.* The word "month," shall mean a calendar month;
- Holiday. *Twelfthly.* The word "holiday" shall include Sundays, New Year's Day, the Epiphany, the Annunciation, Good-Friday, the Ascension, *Corpus Christi*, St. Peter and St. Paul's Day, All Saints' Day and Christmas Day, and any day appointed by Proclamation for a General Fast or Thanksgiving;
- Oath. *Thirteenthly.* The word "oath" shall be construed as meaning a solemn affirmation whenever the context applies to any person and case by whom and in which a solemn affirmation may be made instead of an oath:—And in every case where an oath or affirmation is directed to be made before any person or officer, such person or officer shall have full power and authority to administer the same and to certify its having been made * * * * *;
- Power to administer.
- Registrar—Register. *Fourteenthly.* The words "Registrar" or "Register" in any such Act, applying to the whole Province, shall mean and include indifferently Registrars and Registers in Lower Canada and in Upper Canada, and their Deputies, respectively;

Fifteenthly. Any wilful contravention of any such Act as aforesaid, which is not made any offence of some other kind, shall be a misdemeanor, and punishable accordingly; Contravention of Acts.

Sixteenthly. Whenever any wilful contravention of any such Act is made an offence of any particular kind or name, the person guilty of such contravention shall, on conviction thereof, be punishable in the manner in which such offence is by law punishable; Punishment for contravention in certain cases.

Seventeenthly. Whenever any pecuniary penalty or any forfeiture is imposed for any contravention of any such Act as aforesaid,—then, if no other mode be prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Crown only, or of any private party suing as well for the Crown as for himself,—in any form allowed in such case by the law of that part of the Province where it is brought,—before any Court having jurisdiction to the amount of the penalty in cases of simple contract,—upon the evidence of any one credible witness other than the plaintiff or party interested; And if no other provision be made for the appropriation of such penalty or forfeiture, one half thereof shall belong to the Crown, and the other half shall belong to the private plaintiff, if any there be, and if there be none, the whole shall belong to the Crown; Recovery of pecuniary penalties when no other mode is provided.

Eighteenthly. Any duty, penalty or sum of money, or the proceeds of any forfeiture, which is by any such Act as aforesaid given to the Crown, shall, if no other provision be made respecting it, form part of the Consolidated Revenue Fund of this Province, and be accounted for and otherwise dealt with accordingly; Penalties not otherwise appropriated to form part of Con. Rev. Fund.

Nineteenthly. If any sum of the public money be, by any such Act as aforesaid, appropriated for any purpose or directed to be paid by the Governor.—then, if no other provision be made respecting it, such sum shall be payable under Warrant of the Governor directed to the Receiver General, out of the Consolidated Revenue Fund of this Province: And all persons entrusted with the expenditure of any such sum or any part thereof shall account for the same in such manner and form, with such vouchers, at such periods and to such Officer, as the Governor may direct; Paying and accounting for moneys appropriated by Statute.

Twentiethly. The word “Magistrate” shall mean a Justice of the Peace;—the words “two Justices,” shall mean two or more Justices of the Peace, assembled or acting together;—And if anything is directed to be done by or before a Magistrate or a Justice of the Peace, or other Public Functionary or Officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done:—And whenever power is given to any person, officer or functionary to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to enable such person, officer or functionary to do or enforce the doing of such act or thing; Magistrate—Justices.

Power to do any act to include all necessary powers for doing it.

Imprisonment
—where to be
when no spe-
cial place is
mentioned.

Twenty-firstly. If in any such Act as aforesaid, any party is directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place be mentioned or provided by law, be in or to the common gaol of the locality in which the order for such imprisonment is made, or if there be no common gaol there, then in or to that common gaol which is nearest to such locality; and the keeper of any such common gaol shall receive such person, and him safely keep and detain in such common gaol under his custody until discharged in due course of law, or bailed in cases in which bail may by law be taken;

Power to ap-
point to in-
clude power
to remove,
&c.

Twenty-secondly. Words authorizing the appointment of any public officer or functionary, or any deputy, shall include the power of removing him, re-appointing him or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested;

Name of office
to include
successor's
deputy.

Twenty-thirdly. Words directing or empowering a public officer or functionary to do any act or thing, or otherwise applying to him by his Name of Office, shall include his Successors in such Office, and his or their lawful Deputy;

Words consti-
tuting a cor-
poration to
vest certain
powers in it.

Twenty-fourthly. Words making any association or number of persons a corporation or body politic and corporate, shall vest in such corporation power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession and power to acquire and hold personal property or movables for the purposes for which the corporation is constituted, and to alienate the same at pleasure; and shall also vest in any majority of the members of the corporation, the power to bind the others by their acts; and shall exempt the individual members of the corporation from personal liability for its debts or obligations or acts, provided they do not contravene the provisions of the Act incorporating them;—But no corporation shall carry on the business of banking unless when such power is expressly conferred on them by the Act creating such corporation;

Not to autho-
rize banking.

Twenty-fifthly. No provision or enactment in any such Act as aforesaid, shall affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, unless it is expressly stated therein that Her Majesty shall be bound thereby; nor shall it affect the rights of any person or of any body politic, corporate or collegiate, (such only excepted as are therein mentioned.) unless such Act is a Public General Act;

Acts not to
affect the
Crown, &c.,
unless ex-
pressly de-
clared so to
do.

Power to
amend any
Act.

Twenty-sixthly. Every such Act as aforesaid shall be so construed as to reserve to the Legislature the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever such repeal, amendment, revocation, restriction or modification is deemed by the Legislature to be required for the public good; And unless

And if it be a
Bank Act.

it is otherwise expressly provided in any such Act passed for chartering any Bank, it shall be in the discretion of the Legislature at any time thereafter to make such provisions and impose such restrictions with respect to the amount and description of notes which may be issued by such Bank, as to the said Legislature appears expedient ;

Twenty-seventhly. If any such Act as aforesaid be declared to be a Public Act, such declaration shall be construed as an enactment that such Act shall be judicially noticed by all Judges, Justices of the Peace and others without being specially pleaded ;—And every such Act which shall not, either by its nature or by express provision, be a Public Act, shall be deemed a Private Act, and shall be judicially noticed only when specially pleaded ;—And all copies of any such Acts, public or private, printed by the Queen's Printer, shall be evidence of such Acts and of their contents, and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary be shewn ;

Twenty-eighthly. The Preamble of every such Act as aforesaid shall be deemed a part thereof, intended to assist in explaining the purport and object of the Act ;—And every such Act and every provision or enactment thereof, shall be deemed remedial, whether its immediate purport be to direct the doing of any thing which the Legislature deems to be for the public good or to prevent or punish the doing of any thing which it deems contrary to the public good,—and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act and of such provision or enactment, according to their true intent, meaning and spirit.

Twenty-ninthly. Nothing in this section shall exclude the application to any such Act as aforesaid, of any Rule of Construction applicable thereto, and not inconsistent with this section, or to exclude the application of any Rule of Construction in this section to any Act passed in any Session before that held in the twelfth year of Her Majesty's Reign, if without this section such Rule would have been applicable thereto ;

Thirtiethly. The provisions of this section shall apply to the construction thereof, and to the words and expressions used therein. 12 V., c. 10, s. 5.

* * * * *

PROOF OF PROVINCIAL STATUTES.

14. Any copy of the Statutes and Ordinances of the late Province of Lower Canada, printed and published by the Printer duly authorized to print and publish the same by Her Majesty, or by any of Her Royal Predecessors, shall be received as conclusive evidence of the several Statutes made

and enacted prior to the Union of the Provinces of Upper and Lower Canada, by the Legislature of the Province of Lower Canada, and of the tenor of such Statutes and Ordinances, in any Court of Civil or Criminal Jurisdiction in Upper Canada :

Copies of Acts of U. C. printed by Queen's Printer to be conclusive evidence thereof.

2. And in like manner a copy of the Statutes of the late Province of Upper Canada, printed and published by the Printer duly authorized by Her Majesty, or by any of Her Royal Predecessors, to print and publish the same, shall be received as conclusive evidence of the several Statutes made and enacted by the Legislature of the said Province of Upper Canada, prior to the Union of the said Provinces of Upper and Lower Canada, and of the tenor of such Statutes, in any Court of Civil or Criminal Jurisdiction in Lower Canada. 7 V., c. 4, s. 1.

Short Title of this Act.

15. This Act may be cited as "The Interpretation Act."

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



CHAP. XXIII.

An Act respecting the sale and management of Timber on Public Lands.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

LICENSES TO CUT TIMBER ON PUBLIC LANDS.

1. The Commissioner of Crown Lands, or any officer or agent under him authorized to that effect, may grant licenses to cut timber on the ungranted Lands of the Crown, at such rates, and subject to such conditions, regulations and restrictions as may, from time to time, be established by the Governor in Council, and of which notice shall be given in the *Canada Gazette* :

Commissioner of Crown Lands may grant licenses to cut timber on public lands.

2. No license shall be so granted for a longer period than twelve months from the date thereof; and if, in consequence of any incorrectness of survey or other error or cause whatsoever, a license is found to comprise lands included in a license of a prior date, the license last granted shall be void in so far as it interferes with the one previously issued, and the holder or proprietor of the license so rendered void shall have no claim upon the Government for indemnity or compensation by reason of such avoidance.

Period of license.

As to interfering licenses.

2. The said licenses shall describe the lands upon which the timber may be cut, and shall confer for the time being on the nominee the right to take and keep exclusive possession of the lands so described, subject to such regulations and restrictions as may be established;—And such licenses shall vest in the holders thereof all rights of property whatsoever in all trees, timber and lumber cut within the limits of the license during the term thereof, whether such trees, timber and lumber are cut by authority of the holder of such license, or by any other person, with or without his consent;—And such licenses shall entitle the holders thereof to seize in revendication or otherwise, such trees, timber or lumber where the same are found in the possession of any unauthorized person, and also to institute any action or suit at law or equity against any wrongful possessor or trespassers, and to prosecute all tres-

Form of license, and its legal effect.

passers and other offenders to punishment, and to recover damages if any:—And all proceedings pending at the expiration of any such license may be continued to final termination as if the license had not expired. 12 V., c. 30, s. 2.

Proceedings pending when the license expires.

OBLIGATIONS OF PARTIES OBTAINING LICENSES.

Return to be made by persons obtaining license.

3. Every person obtaining a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Commissioner of Crown Lands, a return of the number and kinds of trees cut, and of the quantity and description of saw logs, or of the number and description of sticks of square timber, manufactured and carried away under such license; and such statement shall be sworn to by the holder of the license, or his agent, or by his foreman, before a justice of the peace; and any person refusing or neglecting to furnish such statement, or evading or attempting to evade any regulation made by Order in Council, shall be held to have cut without authority, and the timber made shall be dealt with accordingly. 12 V., c. 30, s. 3.

To be attested on oath.

Timber liable to payment of dues may be followed until they are paid.

4. All timber cut under licenses shall be liable for the payment of the Crown dues thereon, so long as and where-soever the said timber or any part of it may be found, whether in the original logs or manufactured into deals, boards or other stuff,—and all officers or agents entrusted with the collection of such dues may follow all such timber and seize and detain the same wherever it is found until the dues are paid or secured. 12 V., c. 30, s. 4.

The giving of bonds or notes not to affect the lien on the timber.

5. Bonds or promissory notes taken for the Crown dues, either before or after the cutting of the timber, as collateral security or to facilitate collection, shall not in any way affect the lien of the Crown on the timber, but the lien shall subsist until the said dues are actually discharged. 12 V., c. 31, s. 5.

Sale of timber seized for non-payment of dues.

6. If any timber so seized and detained for non-payment of Crown dues remains more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid,—then the Commissioner of Crown Lands, with the previous special sanction of the Governor in Council, may order a sale of the said timber to be made after sufficient notice,—and the balance of the proceeds of such sale, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of such timber. 12 V., c. 30, s. 6.

LIABILITY OF PERSONS CUTTING WITHOUT LICENSE.

Penalty on persons cutting timber without license, &c.

7. If any person without authority cuts or employs or induces any other person to cut, or assists in cutting any timber of any kind on any of the Crown, Clergy, School or

other Public Lands, or removes or carries away or employs or induces or assists any other person to remove or carry away any merchantable timber of any kind so cut from any of the Public Lands aforesaid, he shall not acquire any right to the timber so cut, or any claim to any remuneration for cutting, preparing the same for market, or conveying the same to or towards market,—and when the timber or saw logs made, has or have been removed out of the reach of the officers of the Crown Lands Department, or it is otherwise found impossible to seize the same, he shall in addition to the loss of his labour and disbursements, forfeit a sum of three dollars for each tree (rafting stuff excepted,) which he is proved to have cut or caused to be cut or carried away,—and such sum shall be recoverable with costs, at the suit and in the name of the Commissioner of Crown Lands or resident agent, in any Court having jurisdiction in civil matters to the amount of the penalty;—And in all such cases it shall be incumbent on the party charged to prove his authority to cut; and the averment of the party seizing or prosecuting, that he is duly employed under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary. 12 V., c. 30, s. 7.

If the timber has been removed, &c.

Party accused must prove the granting of license.

8. Whenever satisfactory information, supported by affidavit made before a Justice of the Peace or before any other competent party, is received by the Commissioner of Crown Lands or any other officer or agent of the Crown Lands Department, that any timber or quantity of timber has been cut without authority on Crown, Clergy, School or other Public Lands, and describing where the said timber can be found, the said Commissioner, officer or agent, or any one of them, may seize or cause to be seized, in Her Majesty's name, the timber so reported to be cut without authority, wherever it is found, and place the same under proper custody, until a decision can be had in the matter from competent authority :

Timber alleged to be unlawfully cut may be seized on a sufficient affidavit, &c.

2. And where the timber so reported to have been cut without authority on the Public Lands, has been made up with other timber into a crib, dram or raft, or in any other manner has been so mixed up at the mills or elsewhere, as to render it impossible or very difficult to distinguish the timber so cut on Public Lands without license, from other timber with which it is mixed up, the whole of the timber so mixed shall be held to have been cut without authority on Public Lands, and shall be liable to seizure and forfeiture accordingly until satisfactorily separated by the holder. 12 V., c. 30, s. 8.

As to timber so cut and mixed up with other timber.

RESISTING SEIZURE — REMOVING TIMBER SEIZED—CONDEMNATION OF SUCH TIMBER, ETC.

9. Any officer or person seizing timber, in the discharge of his duty under this Act, may in the name of the Crown

Seizing officer may command assistance.

will in any assistance necessary for securing and protecting the timber so seized. * * * * 12 V., c. 30, s. 9.

10.

Burden of proof that dues have been paid, on whom to lie.

2. And whenever any timber is seized for non-payment of Crown dues or for any other cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act, and any question arises whether the said dues have been paid on such timber or whether the said timber was cut on other than any of the public lands aforesaid, the burden of proving payment, or on what land the said timber was cut, shall lie on the owner or claimant of such timber, and not on the officer who seizes the same or the party bringing such prosecution. 12 V., c. 30, s. 10.

Timber seized to be condemned, if not claimed within a certain time.

11. All timber seized under this Act shall be deemed to be condemned, unless the person from whom it was seized or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer or nearest officer or agent of the Crown Lands Office, that he claims or intends to claim the same; failing such notice, the officer or agent seizing shall report the circumstances to the Commissioner of Crown Lands, who may order the sale of the said timber by the said officer or agent, after a notice on the spot of at least thirty days:

Judge may order timber to be delivered on security being given.

2. And any Judge having competent jurisdiction may, whenever he deems it proper, try and determine such seizures and may order the delivery of the timber to the alleged owner, on receiving security by bond with two good and sufficient sureties to be first approved by the said agent, to pay double the value in case of condemnation,—and such bond shall be taken in the name of the Commissioner of Crown Lands, to Her Majesty's use and shall be delivered up to and kept by the Commissioner;—and if such seized timber is condemned, the value thereof shall be forthwith paid to the Commissioner of Crown Lands or agent and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. 12 V., c. 30, s. 11

Forfeiture of timber in case of fraud.

12. Every person availing himself of any false statement or oath to evade the payment of Crown dues, shall forfeit the timber on which dues are attempted to be evaded. 12 V., c. 30, s. 12.

* * * * *

Existing licenses or liens saved.

14. Nothing in this Act shall in any way invalidate or affect licenses granted before the thirtieth day of May, 1849, or any obligation then contracted for payment of Crown dues under such licenses, or invalidate the lien of the Crown on any timber cut upon Public Lands, within the limits of

the Province on that day, and upon which the dues there-
tofore exacted have not been paid. notwithstanding any
bond or promissory note taken for the amount of such dues.
12 V., c. 30, s. 14.

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Excellent Majesty.



CHAP. LII.

An Act respecting the Inspection of Hops.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

APPOINTMENT OF INSPECTORS.

On a certain requisition, the Minister of Agriculture shall advertise for persons willing to become inspectors of hops in any city.

1. Upon the receipt of any requisition signed by not less than twenty persons concerned in the production or consumption of Hops, setting forth the necessity of the appointment of an Inspector of Hops in any incorporated City in this Province, the Minister of Agriculture shall cause a notice to be inserted in the *Canada Gazette*, and in two newspapers published in such incorporated City, to the effect that every person resident and doing business in such incorporated City, who is desirous of being appointed Inspector of Hops; may, within two months from and after the first insertion of such notice, transmit to the Minister of Agriculture a statement under oath, setting forth his name, place of business, and the length of time during which he has been concerned in the growth or consumption of, or traffic in Hops (as the case may be), and the quantity of Hops produced, consumed, bought or sold by him during such period, accompanied by such testimonials of his skill in judging of the qualities of Hops as he sees fit and is able to procure, and signifying also his desire to be appointed an Inspector of Hops. 22 V., c. 87, s. 1.

The applicant best qualified shall be appointed.

2. After the expiration of two months from the first insertion of the notice above mentioned, the Governor in Council may appoint, from among the applicants who have complied with the requirements of such notice, the person who seems best suited to the discharge of the duties of the office, to be an Inspector of Hops :

He must give security.

2. But before any person so appointed an Inspector shall act as such, he shall furnish two good and sufficient sureties who shall be bound with himself for the due performance of the duties of his office, in the sum of four hundred dollars each, subject to the approval of the Mayor or chief municipal authority of the City for which the Inspector is appointed :

3. A bond shall be executed to Her Majesty in the form Bond. used with regard to persons appointed to offices of trust in this Province;—And such bond shall avail to the Crown, and to all persons whomsoever who shall or may be aggrieved by the breach of the conditions thereof:

4. No Inspector shall allow any person whomsoever to act for him about the duties of his office, excepting only his sworn Assistant or Assistants, to be appointed in the manner hereinafter provided. 22 V., c. 87, s. 2. No person to act except Inspector or his sworn assistant.

5. The bond of suretyship which shall be executed by such Inspector and his sureties, shall be made and kept at the office of the Clerk of the Corporation of the City for which such Inspector is appointed;—And every person shall be entitled to have communication and copy of any such bond or suretyship at such Clerk's office, upon payment of twenty cents for each communication, and of fifty cents for each copy. 22 V. c. 87, s. 3. Custody of the bond.
Fees for copies, &c.

6. Each person appointed an Inspector of Hops shall, before acting as such, take and subscribe an oath before the Mayor of the City for which he is appointed, who shall administer the same in the words following, to wit:— Inspector to be sworn.

“ I, A. B., do solemnly swear that I will faithfully and truly and impartially, to the best of my judgment, skill and understanding, do and perform the office of an Inspector of Hops, according to the true intent and meaning of the *Act respecting the Inspection of Hops*; and that I will not directly or indirectly, by myself or by any other person or persons whomsoever grow, produce, buy or sell any Hops on my own account or upon the account of any other person or persons whomsoever; nor will I be or remain in the employment or service of any person or persons who may be engaged in the growth of Hops, or consumption of Hops, during the time I shall continue such Inspector. So help me God:” The oath.

Which oath shall be recorded in the office of the Clerk of the City where the same shall be taken:

2. For recording such oath, and for a certificate thereof, the Clerk shall be entitled to demand the sum of fifty cents, and no more; and shall give communication of the original to any person applying for the same, on payment of twenty cents for such communication, and fifty cents for each copy. 22 V., c. 87, s. 4. Fees for receiving such oath.

5. Each Inspector may appoint and remove from time to time some skilful person to act as his Assistant in case of the absence, sickness or other incapacity of the Inspector, which Assistant shall, on being required so to do, perform the several duties and acts hereinbefore assigned to the Inspector, except that he shall mark his own name and the name of his office, “Assistant Inspector,” upon every bale Inspector may appoint assistants.

His remuneration.

and package by him inspected;—And for the performance of such services he shall receive such remuneration as may be agreed upon between himself and the Inspector. 22 V., c. 87, s. 10.

Inspector and his sureties to be responsible for Assistants who shall be sworn.

6. The Inspector and his sureties shall be responsible for the acts of his Assistant done under this Act, in the same manner and to the same extent that he would have been responsible had they been done and performed by himself:

2. Each Assistant, before he shall act as such, shall take and subscribe the following oath before the Mayor of the city in which he is appointed, who shall administer the same:—

The oath.

“I, A. B., do swear that I will diligently, faithfully and impartially execute the office of Assistant of the Inspector of Hops, for the city of _____, according to the true intent and meaning of the *Act respecting the Inspection of Hops*, and that I will not directly or indirectly, personally or by means of any person or persons in my behalf, receive any fee, reward or gratuity whatever by reason of my office of Assistant to the said Inspector (except my salary from the said Inspector) and that I will not directly or indirectly trade in Hops, or be in any manner concerned in the purchase or sale of the same, nor will I be or remain in the employment or service of any person or persons who may be engaged in the growth, traffic or consumption of Hops during the time I shall continue such Assistant Inspector. “So help me God.” 22 V., c. 87, s. 11.

INSPECTION.

Inspector to have proper building for storage of hops.

7. Each Inspector shall provide himself with suitable and convenient premises for the storage and inspection of Hops at the place for which he is appointed, and shall keep all bales and packages of Hops delivered to him for inspection, whilst they remain in his possession, in some dry place, safe from the injuries of the weather or of floods, and under a tight roof, and if in sheds, the same shall be good and sufficient and enclosed on every side, and the packages shall be so deposited that no moisture shall be imparted to them from the earth;—And for the time which they are in his possession previous to the inspection thereof, and for twenty-four hours after such inspection, the said Inspector shall be entitled to make no charge for storage, but all trouble and expense attendant upon the loading, unloading and moving the said Hops shall be at the cost of the person at whose request the said Hops are inspected. 22 V., c. 87, s. 5.

Owner to pay costs of moving them, &c.

Examination and classification of hops.

8. Every such Inspector shall receive into his premises provided as aforesaid, all Hops presented to him for inspection, and shall examine and inspect the same by thoroughly cutting into and examining each bale and package; and he

shall classify and assort the same into three different grades or classes according to their different qualities and conditions, to be denominated, Number One; Merchantable; Number Two:

2. Number One Hops shall comprise all those which are of the first quality in respect to picking, curing, packing, strength, color, flavor, and all other properties which combined would constitute a superior article for sale or use in Canada: Number one hops.

3. Merchantable Hops shall comprise all those which are good, sound and saleable, and in which no material defect or injury exists to the depreciation of their value for use, and which fully possess all the essential properties which render Hops valuable for use, but in a degree inferior to those classified as Number One Hops: Merchantable hops.

4. Number Two Hops shall comprise the remainder of those which are fit and valuable for use, but which from some defects or injuries or improper picking, curing or package, are unworthy to be classified as Merchantable Hops: Number two hops.

5. And the Inspector shall mark in plain letters and figures on each and every bale and package of Hops by him inspected, containing Hops of the quality hereinabove described as Number One Hops, the characters, "No. 1";—of the quality hereinabove described as Merchantable, the word "Merchantable," and of the quality hereinabove described as Number Two Hops, the characters, "No. 2,"—with his own name and that of the place where the said Hops are inspected, and the year when such inspection is made, together with the weight of each bale or package;—He shall also mark upon each bale or package which seems to him to be unsaleable or unfit for use, the word "Unmerchantable:": How inspected hops shall be marked.

6. He shall also make and deliver a separate weigh note or bill of each quality of Hops whenever he is required so to do by the owner thereof or his agent. 22 V., c. 87, s. 6. Weigh note, &c.

9. If from any particular defect in the quality or condition of Hops, or from unskillful picking, curing, packing or other particular circumstance, the Inspector places the mark of an inferior grade upon Hops which would be otherwise of a superior grade, he shall make an entry to that effect and state the particular fault, upon his book to be kept as hereinafter provided, and shall make a memorandum to the same effect upon the weigh note or bill of inspection which he shall deliver to the person entitled to the same. 22 V., c. 87, s. 7. Case of particular defects in hops otherwise good.

10. Each Inspector shall keep a book, in which shall be regularly entered the number of each bale or package by him inspected, with its weight and quality, and the name of the owner of the same or person presenting it for inspection. Book to be kept by inspector.

Bales, &c., to be entered by numbers in order.

tion ; and the first bale or package presented for inspection, being the growth of the year in which it is so inspected, shall take the number one, and each bale or package subsequently inspected shall take a number corresponding to the order of inspection, the numbers being continuous until Hops being the growth of the next ensuing year are presented for inspection ; and the said Inspector shall also mark upon each bale or package inspected the number corresponding to the entry in his book. 22 V., c. 87, s. 8.

FEES AND CHARGES.

Charges and liability of inspector.

11. For all the services to be performed as aforesaid, the Inspector may charge to the owner of the Hops, or the person presenting them for inspection, fifty cents for every hundred pounds weight inspected ; and he may charge a reasonable sum for storage of the same for the actual time they are left in his possession after the first twenty-four hours from the time of inspection ; and he shall not be entitled to make any further charges for any services performed under this Act ;—But the Inspector shall not be liable for losses by fire or other accidents which he could not have reasonably foreseen and prevented. 22 V., c. 87, s. 9.

Disputes between owners of hops and inspectors, how to be settled.

12. If any dispute arises between any Inspector or Assistant Inspector and the proprietor or possessor of any Hops, with regard to the quality thereof, then, upon application to any one of Her Majesty's Justices of the Peace for the place in which such Inspector or his Assistant acts, the said Justice shall issue his summons to three persons of skill and integrity, one whereof to be named by the Inspector or his Assistant, another by the proprietor or possessor of the Hops, and the third by the Justice, requiring the said three persons to examine and inspect the same according to the provisions of this Act, and report their opinion of the quality and condition thereof under oath (which oath the said Justice shall administer,) and their determination, or that of the majority of them, shall be final and conclusive, whether approving or disapproving the judgment of the Inspector or his Assistant, who shall immediately attend thereto, and mark, or cause to be marked, each and every bale and package of the qualities directed by such determination, according to the provisions of this Act ;—And if the opinion of the Inspector or his Assistant be thereby confirmed, the reasonable costs and charges of such re-examination, to be ascertained and awarded by the said Justice, shall be paid by the proprietor or possessor of the Hops, if otherwise, by the Inspector. 22 V., c. 87, s. 15.

Costs.

OFFENCES AND PENALTIES.

Punishment of inspectors, &c., for offen-

13. If any Inspector or his Assistant is directly or indirectly concerned in the buying or selling of any Hops, or

participates in any transaction or profit arising therefrom (other than the fees or emoluments granted by this Act),—or dates any weigh note or bill of inspection differently from the time when the Hops were actually inspected,—or issues the same without any date,—or does not conform to the provisions of this Act, —he shall, for every such offence, incur a penalty not exceeding two hundred dollars, and be for ever thereafter disqualified and disabled from holding the office of Inspector of Hops ;—And every Inspector or Assistant Inspector, or other person, who makes or causes to be made any fraudulent bill of Inspection of Hops, shall be guilty of felony, and shall, upon conviction thereof, be confined at hard labor in the Provincial Penitentiary for any term not exceeding seven years. 22 V., c. 87, s. 12.

ces against
this Act.

Penalty.

Certain offen-
ces to be fe-
lony.

14. If any Inspector or his Assistant, not being then employed in the Inspection of Hops, on application on lawful days between sun-rise and sun-set to him made, refuses to receive any Hops, or neglects or delays to proceed in such examination and inspection for the space of three hours after such application so made to him, the said Inspector or his Assistant so in default, shall, for each such offence, forfeit the sum of twenty dollars to the use of the person so delayed. 22 V., c. 87, s. 13.

Penalty for
refusing to
inspect, &c.

15. If any person counterfeits any of the aforesaid brand marks or other marks of any Inspector of Hops,—or, without the consent of such Inspector, impresses or brands the same, or any other mark purporting to be the mark of any such Inspector, on any package containing Hops, either with the proper marking tools of such Inspector, or with any counterfeit thereof;—or empties any package of Hops branded or marked by any such Inspector, in order to put therein Hops for sale or exportation, without first cutting out or obliterating any previous brand marks thereon,—or fraudulently packs therein any other Hops or thing than the Hops contained therein when such mark was impressed, —or if any person in the employ of any such Inspector hires or lends out the marking tools of such Inspector to any person whatever, or connives at, or is privy to, any fraudulent evasion of this Act, such person committing any of the offences aforesaid, shall, for every such offence, incur a penalty of two hundred dollars. 22 V., c. 87, s. 14.

Penalty for
counterfeiting
inspector's
marks, &c.

Hiring out
brands.

16. Every penalty and forfeiture imposed by this Act shall be recoverable by any Inspector or Assistant Inspector of Hops, or any other person suing for the same, in any Court having civil jurisdiction to the amount; and if such penalty does not exceed forty dollars, the proceedings shall be summary; and such penalty or forfeiture shall, on failure of payment, be levied by execution as in the case of debt:

Recovery of
penalties.

Application
of penalties.

2. And one moiety of every such penalty and forfeiture, when recovered, shall (except when herein otherwise provided) be immediately paid into the hands of the Treasurer of the Corporation of the City wherein the action or prosecution is brought, for the public uses of the said City, and the other moiety shall belong to the person suing for the same, unless the action is brought by an officer of such Corporation, in which case the whole shall belong to the Corporation for the said uses. 22 V., c. 87, s. 17.

Limitation of
prosecutions.

17. No suit or prosecution for any pecuniary penalty incurred under this Act, for any offence against its provisions shall be commenced after the expiration of two years after the commission of the offence. 22 V., c. 87, s. 18.

INSPECTION NOT COMPULSORY.

Inspection
not to be com-
pulsory.

18. Nothing herein contained shall prevent any person from purchasing or selling Hops without inspection; but the inspection had in conformity with the provisions of this Act, shall be decisive as to the quality and condition of the Hops so inspected. 22 V., c. 87, s. 16.

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CHAP. LIX.

An Act respecting the protection of Persons who receive Assignments and enter into Contracts in relation to Goods entrusted to Agents.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

* * * * *

21. In case of the bankruptcy of any such agent, and in case the owner of the goods redeems the same, he shall, in respect of the sum paid by him on account of the agent for such redemption, be held to have paid the same for the use of such agent before his bankruptcy, or in case the goods have not been so redeemed, the owner shall be deemed a creditor of the agent for the value of the goods so pledged at the time of the pledge, and may in either case prove for or set off the sum so paid, or the value of such goods, as the case may be. 10-11 V., c. 10, s. 8.

Remedy of owner against the estate of an agent bankrupt.

* * * * *

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CHAP. LX.

An Act respecting Limited Partnerships.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

* * * * *

Other creditors preferred to special partners.

17. In case of the insolvency or bankruptcy of the partnership, no special partner shall, under any circumstances, be allowed to claim as a creditor until the claims of all the other creditors of the partnership have been satisfied. 12 V., c. 75, s. 16.

* * * * *

Partnerships before 5th September, 1854, empowered to carry on business in both L. C. and U. C.

19. Any partnership firm formed in Upper Canada under the limited Partnership Act, before the fifth day of September, one thousand eight hundred and fifty-four, may carry on business in Lower Canada, as well as in Upper Canada, provided a certificate of the formation of such partnership and of the extension thereof to Lower Canada, in the form following, be first filed in the Prothonotary's Office of the District, and in the Registry Office of the County in Lower Canada, in which the place of business of such partnership in Lower Canada is situate, namely :—

We, the undersigned, do hereby certify that we have entered into copartnership under the style or firm of (&c.,) as (Grocers and Commission Merchants,) which firm consists of (A. B.) residing usually at and (C. D.) residing usually at , as general partners, and (E. F.) residing usually at , and (G. K.) residing usually at as special partners; the said (E. F.) having contributed (\$4,000) and the said (G. K.) (\$8,000) to the Capital Stock of the said partnership, which said partnership commenced on the day of (*Anno Domini, one thousand eight hundred and*) and terminates on the day (*Anno Domini, one thousand eight hundred and*), and whereof a certificate was duly recorded in the Office of the (Clerk of the County Court of the County of) on the day of



CHAP. LXVI.

An Act respecting Railways.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. APPLICATION OF ACT.

Name by which it shall be cited.

1. Whenever this Act is referred to in citing the same, it shall be sufficient to use the expression, "*The Railway Act.*" 14-15 V., c. 51, s. 2.

Application of Act.

2. When not otherwise expressed, this and the following sections to the one hundred and twenty-fifth shall apply to every Railway authorized to be constructed, by any Act passed since the thirtieth day of August, one thousand eight hundred and fifty-one, or by any Act passed after this Act takes effect, and this Act shall be incorporated with every such Act; and all the clauses and provisions of this Act, unless they are expressly varied or excepted by any such Act, shall apply to the undertaking authorized thereby, so far as applicable to the undertaking, and shall as well as the clauses and provisions of every other Act incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act. 14-15 V., c. 51, s. 1.

What shall be sufficient in making an incorporation of this Act with special Acts.

3. For the purpose of incorporating this Act or any of its provisions with a Special Act, it shall be sufficient in such Act to enact, that the Clauses of this Act, with respect to the matter so proposed to be incorporated, referring to the same in the word or words at the head of and introductory to the enactment with respect to such matter, shall be incorporated with such Act, and thereupon all the clauses and provisions of this Act, with respect to the matter so incorporated shall, save in so far as they are expressly varied or excepted by such Act, form part thereof, and such Act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such Act relates. 14-15 V., c. 51, s. 3.

Power to construct railway, &c., to be exercised subject to provisions of this Act.

4. The power given by the Special Act to construct the Railway, and to take and use lands for that purpose, shall be exercised subject to the provisions and restrictions contained in this Act.

5. For the value of lands taken and for all damages to lands injuriously affected by the construction of the Railway in the exercise of the powers by this or the Special Act, or any Act incorporated therewith, vested in the Company, compensation shall be made to the owners and occupiers of, and to all other persons interested in, any lands so taken or injuriously affected. 14-15 V., c. 51, s. 4.

Compensation to be made for lands damaged.

6. Unless otherwise specially provided by this Act or the Special Act, the amount of such compensation shall be ascertained and determined in the manner provided by this Act. 14-15 V., c. 51, s. 4.

How compensation to be determined.

2. INTERPRETATION.

7. 1. The expression "the Special Act," used in this Act, shall be construed to mean any Act authorizing the construction of a Railway, and with which this Act is in manner aforesaid incorporated;

Interpretation of words.

"The special Act."

2. The word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same is prescribed or provided for in the Special Act; and the sentence in which such word occurs shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the Special Act" had been used;

"Prescribed."

3. The expression "the lands" shall mean the lands which by the Special Act are authorized to be taken or used for the purpose thereof;

"The lands."

4. The expression "the undertaking" shall mean the Railway and works, of whatever description, by the Special Act authorized to be executed:

"The undertaking."

5. The following words and expressions, both in this and the Special Act, shall have the meanings hereby assigned to them, unless there is something in the subject or context repugnant to such construction, that is to say:—

6. The word "Lands" shall include all real estate, messuages, lands, tenements and hereditaments of any tenure;

"Lands."

7. The word "Lease" shall include any agreement for a lease;

"Lease."

8. The word "Toll" shall include any rate or charge or other payment payable under this Act or the Special Act for any passenger, animal, carriage, goods, merchandize, articles, matters or things conveyed on the Railway;

"Toll."

9. The word "Goods" shall include things of every kind conveyed upon the Railway, or upon steam or other vessels connected therewith;

"Goods."

10. The expression "Superior Courts" shall mean the Courts of Chancery, Queen's Bench and Common Pleas in Upper Canada, and the Superior Court in Lower Canada, as the case may be;

"Superior Courts."

- "County." 11. The word "County" shall include any union of Counties, County, Riding, or like division of a County in the Province, or any division thereof into separate Municipalities in Lower Canada;
- "Highways." 12. The word "Highways" shall mean all public roads, streets, lanes, and other public ways and communications;
- "Sheriff" 13. The word "Sheriff" shall include Under Sheriff, or other legal competent Deputy; and where any matter in relation to any lands is required to be done by any Sheriff or Clerk of the Peace, the expression "the Sheriff," or the expression "Clerk of the Peace," shall in such case be construed to mean the Sheriff or Clerk of the Peace of the District, County, Riding, Division, or place where such lands are situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one District, County, Riding, Division, or place, the same expression shall be construed to mean the Sheriff or Clerk of the Peace of any such District, County, Riding, Division or place where any part of such lands are situate;
- "Justice." 14. The word "Justice" shall mean Justice of the Peace acting for the District, County, Riding, Division, City or place where the matter requiring the cognizance of a Justice arises, and who is not interested in the matter; and where the matter arises in respect of lands being the property of one and the same party, situate not wholly in any one District, County, Riding, Division, City or place, the word "Justice" shall mean a Justice acting for the District, County, Riding, Division, City or place where any part of such lands are situate, and who is not interested in such matter; and where any matter is authorized or required to be done by two Justices, the expression "two Justices" shall be understood to mean two Justices assembled and acting together;
- "Two Justices." 15. The word "owner" where, under the provisions of this Act or the Special Act, any notice is required to be given to the owner of any lands, or where any act is authorized or required to be done with the consent of any such owner, shall be understood to mean any corporation or person who, under the provisions of this Act, or the Special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the Company;
- "Owner." 16. The expression "the Company" shall mean the company or party authorized by the Special Act to construct the Railway;
- "The Company." 17. The expression "the Railway" shall mean the Railway and works by the Special Act authorized to be constructed;
- "The Railway." 18. The word "Clause" shall mean any separate section of this Act, or any other Act therein referred to, distinguished by a separate number;
- "Clause." 19. The word "Shareholder" shall mean every subscriber to or holder of stock in the undertaking, and shall extend

to and include the personal representatives of the shareholder. 14-15 V., c. 51, s. 7.

3. INCORPORATION.

8. Every Company established under any Special Act shall be a body corporate under the name declared in the Special Act, and shall be invested with all the powers, privileges and immunities necessary to carry into effect the intentions and objects of this Act and of the Special Act therefor, and which are incident to such corporation, as are expressed or included in "the Interpretation Act." 14-15 V., c. 51, s. 8.

Companies established under special Acts, declared to be bodies corporate, &c.

4. POWERS.

9. The Company shall have power and authority :

Powers :

Firstly. To receive, hold and take all voluntary grants and donations of land or other property made to it, to aid in the construction, maintenance and accommodation of the Railway, but the same shall be held and used for the purpose of such grants or donations only ; 14-15 V., c. 51, s. 9.

To receive grants of land, &c. ;

Secondly. To purchase, hold and take of any corporation or person any land or other property necessary for the construction, maintenance, accommodation and use of the Railway, and also to alienate, sell or dispose of the same ;

Purchase land ;

Thirdly. No Railway Company shall take possession of, use or occupy any lands vested in Her Majesty, without the consent of the Governor in Council ; but with such consent any such Company may take and appropriate for the use of their Railway and works, but not alienate, so much of the wild lands of the Crown lying on the route of the Railway, as have not been granted or sold, and as may be necessary for such Railway, as also so much of the public beach or of the land covered with the waters of any Lake, River, Stream or Canal, or of their respective beds, as is necessary for making and completing and using their said Railway and Works, but nothing in this sub-section contained, shall apply to the thirty and thirty-first paragraphs of the eleventh section of this Act 14-15 V., c. 51, s. 9, No. 3,—16 V., c. 169, s. 8 ;

Occupy public lands, beaches, &c.

Fourthly. To make, carry or place the Railway across or upon the lands of any Corporation or person on the line of the Railway, or within the distance from such line stated in the Special Act, although through error or other cause, the name of such party has not been entered in the Book of Reference hereinafter mentioned, or although some other party has been erroneously mentioned as the owner of or entitled to convey, or is interested in such lands ;

Carry railway across lands of corporations, and others ;

Fifthly. To construct, maintain and work the Railway across, along, or upon any stream of water, water course, canal, highway or railway which it intersects or touches : but the stream, water course, highway, canal or railway so

And across or along streams &c. ;

intersected or touched, shall be restored by the Company to its former state, or to such state as not to impair its usefulness ;

Complete railway with one or more tracks, &c. ;

Sixthly. To make, complete, alter and keep in repair the railway with one or more sets of rails or tracks to be worked by the force and power of steam, or of the atmosphere, or of animals, or by mechanical power, or by any combination of them ;

Erect necessary buildings, wharves &c. ;

Seventhly. To erect and maintain all necessary and convenient buildings, stations, depots, wharves and fixtures, and from time to time to alter, repair or enlarge the same, and to purchase and acquire stationary or locomotive engines and carriages, waggons, floats and other machinery and contrivances necessary for the accommodation and use of the passengers, freights and business of the Railway ;

Branch railways ;

Eighthly. To make branch Railways, if required and provided by the Special Act, and to manage the same, and for that purpose to exercise all the powers, privileges and authorities necessary therefor, in as full and ample a manner as for the Railway ;

All other matters and things necessary for railway ;

Ninthly. To construct, erect and make all other matters and things necessary and convenient for the making, extending and using of the Railway, in pursuance of and according to the meaning and intent of this Act, and of the Special Act ;

Convey persons and goods on railway ;

Tenthly. To take, transport, carry and convey persons and goods on the Railway, to regulate the time and manner in which the same shall be transported, and the tolls and compensation to be paid therefor, and to receive such tolls and compensation ;

Borrow money, &c.

Eleventhly. To borrow from time to time, either in this Province or elsewhere, such sums of money as may be expedient for completing, maintaining and working the Railway, and at a rate of interest not exceeding eight per cent. per annum, and to make the Bonds, Debentures or other securities granted for the sums so borrowed, payable either in currency or in sterling, and at such place or places within this Province or without as may be deemed advisable, and to sell the same at such prices or discount as may be deemed expedient, or be necessary, and to hypothecate mortgage or pledge the lands, tolls, revenues and other property of the Company for the due payment of the said sums and the interest thereon ; but no such debenture shall be for a less sum than one hundred dollars ;

Enter upon Her Majesty's lands, &c. ;

Twelfthly. To enter into and upon any lands of Her Majesty without previous license therefor, or into and upon the lands of any corporation or person whatsoever lying in the intended route or line of the Railway ;

Make surveys of lands ;

Thirteenthly. To make surveys, examinations, or other necessary arrangements on such lands necessary for fixing the site of the Railway, and to set out and ascertain such

parts of the lands as are necessary and proper for the Railway;

Fourteenthly. To fell or remove any trees standing in any woods, lands or forests, where the Railway passes, to the distance of six rods from either side thereof; Remove trees;

Fifteenthly. To cross, intersect, join and unite the Railway with any other Railway at any point on its route, and upon the lands of such other Railway, with the necessary conveniences for the purposes of such connection; and the owners of both Railways may unite in forming such intersection, and grant the facilities therefor; and in case of disagreement upon the amount of compensation to be made therefor, or upon the point or manner of such crossing and connection, the same shall be determined by Arbitrators to be appointed by a Judge of one of the Superior Courts in Lower Canada or Upper Canada, as the case may be; Unite with other rail-ways.
14-15 V., c. 51, s. 9, No. 15. See 22 V., c. 4, s. 2.

5. PLANS AND SURVEYS.

10. Plans and Surveys shall be made and corrected as follows: 14-15 V., c. 51, s. 10. Provision respecting surveys and levels.

Firstly. Surveys and levels shall be taken and made of the lands through which the Railway is to pass, together with a Map or Plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then ascertained, and also a Book of Reference for the Railway, in which shall be set forth—

1. A general description of the said lands;
2. The names of the owners and occupiers thereof, so far as they can be ascertained; and
3. Everything necessary for the right understanding of such Map or Plan;

Secondly. The Map or Plan and Book of Reference shall be examined and certified by the person performing the duties formerly assigned to the Surveyor General or his Deputies, who shall deposit copies thereof in the office of the Clerks of the Peace in the Districts or Counties through which the Railway passes, and also in the Office of the Provincial Secretary, and shall also deliver one copy thereof to the said Company;

Thirdly. Any person may resort to such copies, and make extracts or copies thereof as occasion requires, paying to the Provincial Secretary, or to the Clerks of the Peace, at the rate of ten cents for every hundred words;

Fourthly. The triplicates of such Map or Plan and Book of Reference so certified, or a true copy thereof certified by the Provincial Secretary, or by the Clerks of the Peace, shall be good evidence in any Court of Law and elsewhere;

Fifthly. Any omission, misstatement or erroneous description of such lands, or of the owners or occupiers thereof, in any Map or Plan or Book of Reference, may, after giving Omissions how remedied,

ten days' notice to the owners of such lands, be corrected by two Justices on application made to them for that purpose, and if it appears to them that such omission, misstatement or erroneous description arose from mistake, the Justices shall certify the same accordingly;

Sixthly. The Certificate shall state the particulars of any such omission, and the manner thereof, and shall be deposited with the Clerks of the Peace of the Districts or Counties respectively in which such lands are situate, and be kept by them along with the other documents to which they relate; and thereupon such Map or Plan or Book of Reference shall be deemed to be corrected according to such certificate; and the Company may make the Railway in accordance with the Certificate;

Alterations
from original
survey.

Seventhly. If any alterations from the original Plan or Survey are intended to be made in the line or course of the Railway, a Plan and Section in triplicate of such alterations as have been approved of by Parliament, on the same scale and containing the same particulars as the original Plan and Survey, shall be deposited in the same manner as the original Plan, and copies or extracts of such Plan and Section so far as relate to the several Districts or Counties, in or through which such alterations have been authorized to be made, shall be deposited with the Clerks of such Districts and Counties;

Railway not
to be proceed-
ed with until
map, &c., de-
posited.

Eighthly. Until such original Map or Plan and Book of Reference, or the plans and sections of the alterations, have been so deposited, the execution of the Railway, or of the part thereof affected by the alterations, *as the case may be*, shall not be proceeded with;

Clerks of the
Peace to re-
ceive copies
of original
plan, &c.

Ninthly. The Clerks of the Peace shall receive and retain the copies of the original Plans and Surveys, and copies of the Plans and Sections of alterations, and copies and extracts thereof respectively, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, under a penalty for default of four dollars;

Copies certi-
fied by Clerk
to be good
evidence in
Courts.

Tenthly. The copies of the Maps, Plans and Books of Reference, or of any alteration or correction thereof, or extracts therefrom, certified by the Clerk of the Peace, shall be received in all Courts of Justice or elsewhere as good evidence of the contents thereof, and the Clerk of the Peace shall give such certificate to all parties interested when required;

Line not to
deviate more
than a mile.

Eleventhly. No deviation of more than one mile from the line of the Railway or from the places assigned thereto in the said Map or Plan and Book of Reference or Plans or Sections, shall be made into, through, across, under or over any part of the lands not shewn in such Map or Plan and Book of Reference, or Plans or Sections, or within one mile of the said line and place, save in such instances as are provided for in the Special Act;

Twelfthly. The Railway may be carried across or upon the lands of any person on the line, or within the distance from such line as aforesaid, although the name of such person has not been entered in the Book of Reference through error or any other cause, or although some other person is erroneously mentioned as the owner of or entitled to convey or is interested in such lands ;

Error in the name of a person entered in a book of reference.

Thirteenthly. The lands which may be taken without the consent of the proprietor thereof shall not exceed thirty yards in breadth, except in places where the Railway is raised more than five feet higher, or cut more than five feet deeper than the surface of the line, or where offsets are established, or where stations, depots or fixtures are intended to be erected, or goods to be delivered, and then not more than two hundred yards in length by one hundred and fifty yards in breadth, without the consent of the person authorized to convey such lands ; and the places at which such extra breadth is to be taken shall be shewn on the Map or Plan, or Plans or Sections, so far as the same may be then ascertained, but their not being so shewn shall not prevent such extra breadth from being taken, provided it be taken upon the line shewn, or within the distance aforesaid from such line ;

Extent of lands to be taken without consent of proprietor.

Fourteenthly. The extent of the public beach, or of the land covered with the waters of any river or lake in this Province, taken for the Railway, shall not exceed the quantity limited in the next preceding clause. 14-15 V., c. 51, s. 10.

Extent of public beach to be taken.

6. LANDS AND THEIR VALUATION.

11. The conveyance of lands, their valuation and the compensation therefor, shall be made in manner following : 14-15 V., c. 51, s. 11.

Firstly. All corporations and persons whatever, tenants in tail or for life, *grevés de substitution*, guardians, curators, executors, administrators and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons, seized, possessed of, or interested in any lands, may contract for, sell and convey unto the Company all or any part thereof ; and any contract, agreement, sale, conveyance and assurance so made shall be valid and effectual in law to all intents and purposes whatsoever ; and the corporation and person so conveying is hereby indemnified for what he or it respectively does by virtue of or in pursuance of this Act ;

Corporation, &c., may convey lands.

Secondly. Any contract or agreement made by any party authorized by this Act to convey lands, and made before the deposit of the Map or Plan and Book of Reference, and before the setting out and ascertaining of the lands required for

Effect of contracts made before deposit of map.

the Railway, shall be binding at the price agreed upon for the same lands, if they are afterwards so set out and ascertained within one year from the date of the contract or agreement, and although such land may, in the meantime, have become the property of a third party; and possession of the land may be taken, and the agreement and price may be dealt with as if such price had been fixed by an award of Arbitrators, as hereinafter provided, and the agreement shall be in the place of an award;

Corporations
who cannot
sell, may
agree upon a
fixed rent.

Thirdly. All corporations or persons who cannot in common course of law sell or alienate any lands so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands; and if the amount of the rent is not fixed by voluntary agreement or compromise, it shall be fixed and all proceedings shall be regulated in the manner herein prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid for the purchase of any lands, or for any part of the purchase money of any lands, which the vendor agrees to leave unpaid, the Railway and the tolls thereon shall be liable and chargeable in preference to all other claims and demands thereon whatsoever, the deed creating such charge and liability being duly registered in the Registry Office of the proper county;

As to proprie-
tor *par indivis*.
vis.

Fourthly. Whenever there is more than one party proprietor of any land as joint tenant or tenants in common, or *par indivis*, any contract or agreement made in good faith with any party or parties proprietor or being together proprietors of one third or more of such land, as to the amount of compensation for the same or for any damages thereto, shall be binding as between the remaining proprietor or proprietors as joint tenants or tenants in common and *par indivis*; and the proprietor or proprietors who have so agreed, may deliver possession of such land, or empower the entry upon the same, as the case may be;

After one
month's
notice of de-
posit of map,
&c., applica-
tion to the
owner of
lands.

Fifthly. After one month from the deposit of the Map or Plan and Book of Reference, and from notice thereof in at least one newspaper, if there be any, published in each of the Districts and Counties through which the Railway is intended to pass, application may be made to the owners of lands or to parties empowered to convey lands, or interested in lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the Railway, and thereupon agreements and contracts may be made with such parties touching the said lands or the compensation to be paid for the same, or for the damages, or as to the mode in which such compensation shall be ascertained, as may seem expedient to both parties, and in case of disagreement between them, or any of them, then all questions which arise between them, shall be settled as follows, that is to say:

Sixthly. The deposit of a Map or Plan and Book of Reference, and the notice of such deposit, shall be deemed a general notice to all such parties as aforesaid of the lands which will be required for the said Railway and works ;

Deposit, &c.,
to be general
notice.

Seventhly. The notice served upon the party shall contain :

Notice to op-
posite party.

1. A description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, describing them ;

2. A declaration of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or for such damages ; and

3. The name of a person to be appointed as the Arbitrator of the Company, if their offer be not accepted ; and such notice shall be accompanied by the certificate of a sworn surveyor for Upper Canada or Lower Canada, *as the case may be*, disinterested in the matter, and not being the Arbitrator named in the notice :

1. That the land, if the notice relate to the taking of land, shown on the said map or plan, is required for the Railway, or is within the limits of deviation hereby allowed ;

2. That he knows the land, or the amount of damage likely to arise from the exercise of the powers ; and

3. That the sum so offered is, in his opinion, a fair compensation for the land, and for the damages as aforesaid.

Eighthly. If the opposite party is absent from the District or County in which the lands lie, or is unknown, then, upon application to a Judge of the Circuit Court, or of the County Court, *as the case may be*, accompanied by such certificate as aforesaid, and by an affidavit of some officer of the Company that the opposite party is so absent, or that, after diligent enquiry, the party on whom the notice ought to be served cannot be ascertained, the Judge shall order a notice as aforesaid, but without a Certificate, to be inserted three times in the course of one month in some newspaper published in the said District or County ;

If the party be
absent or un-
known.

Ninthly. If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party does not notify to the Company his acceptance of the sum offered by them, or notify to them the name of a person whom he appoints as Arbitrator, then the Judge shall, on the application of the Company, appoint a Sworn Surveyor for Upper or Lower Canada, as the case may be, to be sole Arbitrator for determining the compensation to be paid as aforesaid ;

Party not ac-
cepting the
company's
offer, and not
appointing an
arbitrator.

Tenthly. If the opposite party, within the time aforesaid, notifies to the Company the name of his Arbitrator, then the two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then the Judge shall, on the application of the party or of the Company (previous notice of at least

Appointment
of arbitrators
by opposite
party.

Third arbitrator. one clear day having been given to the other party), appoint a third Arbitrator ;

Duties of arbitrators. *Eleventhly.* The Arbitrators, or any two of them, or the sole Arbitrator, being sworn before some Justice of the Peace for the District or County in which the lands lie, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the said compensation in such way as they or he, or a majority of them, deem best, and the award of such Arbitrators, or any two of them, or of the sole Arbitrator, shall be final and conclusive ; But no such award shall be made or any official act be done by such majority, except at a meeting held at a time and place of which the other Arbitrator has had at least one clear day's notice, or to which some meeting at which the third Arbitrator was present, had been adjourned ; and no notice to either of the parties shall be necessary, but each party shall be held sufficiently notified through the Arbitrator appointed by him, or whose appointment he required ;

Costs, how paid.

Twelfthly. If in any case where three Arbitrators have been appointed, the sum awarded is not greater than that offered, the costs of the Arbitration shall be borne by the opposite party, and be deducted from the compensation, but if otherwise, they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by the Judge aforesaid ;

Arbitrators may examine on oath.

Thirteenthly. The Arbitrators, or a majority of them, or the sole Arbitrator, may examine on oath or solemn affirmation the parties, or such witnesses as voluntarily appear before him or them, and may administer such oath or affirmation ; and any wilfully false statement made by any witness, under such oath or affirmation, shall be deemed wilful and corrupt perjury, and punishable accordingly ;

Time within which award must be made.

Fourteenthly. The Judge by whom any third Arbitrator or sole Arbitrator is appointed, shall, at the same time, fix a day on or before which the award shall be made, and if the same is not made on or before such day, or some other day to which the time for making it has been prolonged, either by the consent of the parties or by the order of the Judge (as it may be for reasonable cause shown, on the application of such sole Arbitrator, or of one of the Arbitrators after one clear day's notice to the others), then the sum offered by the Company, as aforesaid, shall be the compensation to be paid by them ;

Arbitrator dying, &c.

Fifteenthly. If the Arbitrator appointed by such Judge, or if any Arbitrator appointed by the parties, dies before the award has been made, or is disqualified, or refuses or fails to act within a reasonable time, then, in the case of the Arbitrator appointed by the Judge upon the application of either party, such Judge being satisfied by affidavit or otherwise of such death, disqualification, refusal or failure, may appoint another Arbitrator in his place, and the Company and party respectively may each appoint an Arbitrator in

the place of his arbitrator deceased or otherwise not acting as aforesaid, but no recommencement or repetition of prior proceedings shall be required in any case ;

Sixteenthly. Any such notice for lands, as aforesaid, may be desisted from, and new notice given, with regard to the same or other lands, to the same or any other party, but in any such case, the liability to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment, shall subsist ;

Company may desist, paying costs.

Seventeenthly. The Surveyor or other person offered or appointed as Valuator or as Arbitrator, shall not be disqualified by reason that he is professionally employed by either party, or that he has previously expressed an opinion as to the amount of compensation, or that he is related or of kin to any member of the Company, provided he is not himself personally interested in the amount of the compensation ; and no cause of disqualification shall be urged against any Arbitrator appointed by the Judge after his appointment, but the objection must be made before the appointment, and its validity or invalidity shall be summarily determined by the Judge ;

Arbitrators not disqualified unless personally interested.

Eighteenthly. No cause of disqualification shall be urged against any arbitrator appointed by the Company or by the opposite party after the appointment of a third Arbitrator ; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator, before the appointment of a third Arbitrator, shall be summarily determined by the Judge, on the application of either party, after one clear day's notice to the other, and if such cause is determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified, shall be held not to have appointed an Arbitrator ;

No objection admissible after a third arbitrator has been appointed.

Nineteenthly. No award made as aforesaid shall be invalidated from any want of form or other technical objection, if the requirements of this Act have been complied with, and if the award state clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation ; nor shall it be necessary that the party or parties to whom the sum is to be paid, be named in the award ;

Awards not avoided for want of form.

Twentiethly. Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon as aforesaid to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the said Company the power forthwith to take possession of the lands, or to exercise the right, or to do the thing for which such compensation or annual rent has been awarded or agreed upon ; and if any resistance or forcible opposition be made by any person to their so doing, the Judge may, on proof to his satisfaction of such award or agreement, issue his Warrant to the Sheriff of the District

Possession may be taken on payment or tender, &c., of sum awarded.

or County, or to a Bailiff, as he may deem most suitable, to put the said Company in possession, and to put down such resistance or opposition, which the Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do;

When warrant of possession may issue before award.

Twenty-firstly. Such Warrant may also be granted by any such Judge, without such award or agreement, on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the said Railway with which the said Company are ready forthwith to proceed, and upon the said Company giving security to his satisfaction, and in a sum which shall not be less than double the amount mentioned in the notice, to pay or deposit the compensation to be awarded within one month after the making of the award, with interest from the time at which possession is given, and with such costs as may be lawfully payable by the Company;

Security being first given to deposit compensation.

When compensation to stand in the place of the land.

Twenty-secondly. The compensation for any lands which might be taken without the consent of the proprietor, shall stand in the stead of such lands; and any claim to or incumbrance upon the said lands, or any portion thereof, shall, as against the Company, be converted into claim to the compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party;

As to incumbrances, &c., upon lands, &c., purchased or taken in U. C.

Twenty-thirdly. If the Company has reason to fear any claims or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof is payable, refuses to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found or is unknown to the Company, or if for any other reason the Company deems it advisable, the Company may, if the lands are situated in Upper Canada, pay such compensation into the office of either of the Superior Courts for Upper Canada, with the interest thereon for six months, and may deliver to the Clerk of the Court an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the Company to the land therein mentioned;

What notice to be published.

Twenty-fourthly. A notice, in such form and for such time as the said Court appoints, shall be inserted in some newspaper if there be any, published in the County in which the lands are situate, and in the City of Toronto, which shall state that the title of the Company, that is, the conveyance, agreement or award, is under this Act, and shall call upon all persons entitled to the land, or to any part thereof, or representing or being the husbands of any parties so entitled, to file their claims to the compensation or any part thereof, and all such claims shall be received and adjudged upon by the Court, and the said proceedings

shall for ever bar all claims to the lands, or any part thereof, including dower, as well as all mortgages or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested, as to right and justice, and according to the provisions of this Act, and the special Act and to law, appertain;

Twenty-fifthly. The costs of the proceedings, or any part thereof, shall be paid by the Company, or by any other party as the Court deem it equitable to order;

By whom costs to be paid.

Twenty-sixthly. If such order of distribution as aforesaid be obtained in less than six months from the payment of the compensation into Court, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company, it is not obtained until after the six months have expired, the Court shall order the Company to pay to the proper claimants the interest for such further period as may be right;

When interest to be returned to, or paid by the company.

Twenty-seventhly. If the lands so taken are situate in Lower Canada, and if the Company have reason to fear any such claim, mortgage, hypothec or incumbrance, or if any party to whom the compensation or annual rent, or any part thereof, is payable, refuses to execute the proper conveyance and guarantee, or if the party entitled to claim the compensation or rent cannot be found, or is unknown to the Company, or if for any other reason the Company deems it advisable, the Company may pay such compensation into the hands of the Prothonotary of the Superior Court for the District in which the land is situate, with the interest thereon for six months, and may deliver to the said Prothonotary an authentic copy of the conveyance, or of the award, if there be no conveyance, and such award shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that, in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company (that is, the conveyance or award) is under this Act, and shall call upon all persons entitled to the lands, or any part thereof, or representing or being the husband of any party so entitled, to file their claims to the compensation, or any part thereof, and all such claims shall be received and adjudged upon by the Court;

Case in which lands are situate in L. C., and company have reason to fear incumbrances, provided for.

Twenty-eighthly. Such judgment of confirmation shall for ever bar all claims to the land, or any part thereof (including dower not yet open), as well as any mortgage, hypothec or incumbrance upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the security of the rights of all parties interested, as to right and justice, and the Special

Effect of a judgment of confirmation.

Act, and according to the provisions of this Act and to law, shall appertain;

By whom cost
to be paid.

Twenty-ninthly. The costs of the said proceedings, or any part thereof, shall be paid by the Company, or by any other party, as the Court deem it equitable to order; and if judgment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company, it is not obtained until after the six months have expired, the Court shall order the Company to pay the Prothonotary the interest for such further period as may be right;

Interest.

The case of
railway pas-
sing through
Indian lands
provided for.

Thirtiethly. If the Railway passes through any land belonging to or in possession of any Tribe of Indians in this Province, or if any act occasioning damage to their lands be done under the authority of this Act or the Special Act, compensation shall be made to them therefor, in the same manner as is provided with respect to the lands or rights of other individuals; and whenever it is necessary that Arbitrators should be chosen by the parties, the Chief Officer of the Indian Department within this Province, is hereby authorized and required to name an Arbitrator on behalf of the Indians, and where the lands belong to the Indians, the amount awarded in any case shall be paid to the said Chief Officer, for the use of such Tribe or Body;

As to lands
belonging to
Her Majesty,
&c.

Thirty-firstly. Whenever it is necessary for the Company to occupy any part of the lands belonging to the Queen, reserved for Naval or Military purposes, they shall first apply for and obtain the license or consent of Her Majesty, under the hand and seal of the Governor, and having obtained such license and consent, they may at any time or times enter into and enjoy any of the said lands for the purposes of the Railway; but in the case of any such Naval or Military Reserves, no such license or consent shall be given except upon a Report first made thereupon by the Naval or Military authorities in which such lands are for the time being vested, approving of such license and consent being so given as aforesaid. 14-15 V., c. 51, s. 11.

7. HIGHWAYS AND BRIDGES.

12. The Highways and Bridges shall be regulated as follows: 14-15 V., c. 51, s. 12.

Railway not
to be carried
along any
highway
without leave
from munici-
pal authori-
ties.

Firstly. The Railway shall not be carried along an existing highway, but merely cross the same in the line of the Railway, unless leave has been obtained from the proper Municipal authority therefor; and no obstruction of such highway with the works shall be made without turning the highway so as to leave an open and good passage for carriages, and, on completion of the works, replacing the highway, under a penalty of not less than forty dollars for

any contravention; but, in either case, the rail itself, provided it does not rise above or sink below the surface of the road more than one inch, shall not be deemed an obstruction;

Secondly. No part of the Railway which crosses any highway without being carried over by a bridge, or under by a tunnel, shall rise above or sink below the level of the highway more than one inch; and the Railway may be carried across or above any highway within the limits aforesaid;

Railway not to rise more than one inch above level of highways when crossing the same.

Thirdly. The space of the arch of any bridge erected for carrying the Railway over or across any highway shall at all times be, and be continued of the open and clear breadth and space, under such arch, of not less than twenty feet, and of a height from the surface of such highway to the centre of such arch of not less than twelve feet; and the descent under any such bridge shall not exceed one foot in twenty feet;

Height and breadth of bridge over highways.

Fourthly. The ascent of all bridges erected to carry any highway over any Railway shall not be more than one foot in twenty feet increase over the natural ascent of the highway; and a good and sufficient fence shall be made on each side of every bridge, which fence shall not be less than four feet above the surface of the bridge;

Ascent of bridges.

Fifthly. Signboards stretching across the highway crossed at a level by any Railway, shall be erected and kept up at each crossing at such height as to leave sixteen feet from the highway to the lower edge of the signboard, and having the words "Railway Crossing" painted on each side of the signboard, and in letters not less than six inches in length; and for every neglect to comply with the requirements of this clause, a penalty not exceeding forty dollars shall be incurred. 14-15 V., c. 51, s. 12.

Precautions when railway crosses a highway.

8. FENCES.

13. Fences shall be erected and maintained on each side of the Railway, of the height and strength of an ordinary division fence, with openings, or gates, or bars therein at farm crossings of the Road, for the use of the proprietors of the land adjoining the Railway; and also cattle guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on the Railway. 14-15 V., c. 51, s. 13.

Fences to be erected on each side of railway.

14. The said words "openings, gates or bars," shall be held to mean and shall in all cases imply sliding gates commonly called hurdle gates, with proper fastenings; but this shall not be interpreted to the profit of those proprietors and tenants of land crossed by Railways in this Province, who had received compensation from the Railway Companies, for having omitted the erection of such gates before the

Meaning of certain words.

tenth of June, one thousand eight hundred and forty-seven, nor shall it in any way affect or apply to any Railway constructed or in part constructed, on the tenth of June, one thousand eight hundred and forty-seven, but the same shall apply only to such Railways as may be constructed or commenced after that day. 20 V., c. 35, s. 1.

Liability of company until cattle guards erected.

15. Until such fences and cattle guards are duly made, the Company shall be liable for all damages which may be done by their trains or engines to cattle, horses, or other animals on the Railway. 14-15 V., c. 51, s. 13.

When to be exempted,

16. After the fences or guards have been duly made, and while they are duly maintained, no such liability shall accrue for any such damages, unless negligently or wilfully done. 14-15 V., c. 51, s. 13.

Persons prohibited going on the track, &c., with cattle, &c.

17. If any person rides, leads or drives any horse or other animal upon such Railway, and within the fences and guards, other than the farm crossings, without the consent of the Company, he shall for every such offence forfeit a sum not exceeding forty dollars, and shall also pay to the party aggrieved all damages sustained thereby. 14-15 V., c. 51, s. 13.

Or walking thereon.

18. No person other than those connected with, or employed by the Railway, shall walk along the track thereof, except where the same is laid across or along a highway. 14-15 V., c. 51, s. 13, No. 1.

Dividing and separating of lands for railway from neighbouring lands

19. Within six months after any lands have been taken for the use of the Railway, and if thereunto required by the proprietors of the adjoining lands respectively, but not otherwise, the Company shall, at their own costs and charges, set and make on the lands so taken, and from time to time, maintain, support and keep in repair, a sufficient post or rail, hedge, ditch, bank or other fence sufficient to keep off hogs, sheep and cattle and thereby divide and separate and keep constantly divided and separated such lands from the lands or grounds adjoining thereto. 14-15 V., c. 51, s. 13, No. 2.

9. TOLLS.

Tolls to be fixed by by-laws or otherwise.

20. Tolls shall be from time to time fixed and regulated by the By-laws of the Company, or by the Directors, if thereunto authorized by the By-laws, or by the Shareholders at any general meeting, and may be demanded and received for all passengers and goods transported upon the Railway or in the Steam Vessels to the undertaking belonging, and shall be paid to such persons and at such places near to the Railway, in such manner and under such regulations as the By-laws direct. 14-15 V., c. 51, s. 14.

21. In case of denial or neglect of payment on demand of any such Tolls, or any part thereof, to such persons, the same may be sued for and recovered in any competent Court, or the Agents or Servants of the Company may seize the goods for or in respect whereof such tolls ought to be paid, and detain the same until payment thereof; and in the meantime the said goods shall be at the risk of the owners thereof. 14-15 V., c. 51, s. 14.

How payment
of tolls en-
forced.

22. If the tolls are not paid within six weeks, the Company may sell the whole or any part of such goods, and out of the money arising from such sale retain the tolls payable, and all charges and expenses of such detention and sale; rendering the surplus, if any, or such of the goods as remain unsold, to the person entitled thereto. 14-15 V., c. 51, s. 14.

When if tolls
not paid,
goods dis-
trained may
be sold.

23. If any goods remain in the possession of the Company unclaimed for the space of twelve months, the Company may thereafter, and on giving public notice thereof by advertisement for six weeks in the *Canada Gazette*, and in such other papers as they deem necessary, sell such goods by public auction at a time and place to be mentioned in such advertisement, and out of the proceeds thereof pay such tolls and all reasonable charges for storing, advertising and selling such goods; and the balance of the proceeds, if any, shall be kept by the Company for a further period of three months, to be paid over to any party entitled thereto. 14-15 V., c. 51, s. 14.

When goods
distrained or
detained may
be sold.

24. In default of such balance being claimed before the expiration of the period last aforesaid, the same shall be paid over to the Receiver General, to be applied to the general purposes of the Province, until claimed by the party entitled thereto. 14-15 V., c. 51, s. 14.

How balance
to be disposed
of.

25. All or any of the tolls may, by any By-law, be reduced and again raised as often as deemed necessary for the interests of the undertaking: Provided, that the same tolls shall be payable at the same time and under the same circumstances upon all goods and by all persons, so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any By-laws relating to the tolls. 14-15 V., c. 51, s. 14.

Tolls—how
raised—or re-
duced.

26. In all cases, a fraction in the distance over which goods or passengers are transported on the Railway shall be considered as a whole mile; and for a fraction of a ton in the weight of any goods, a proportion of the tolls shall be demanded and taken according to the number of quarters of a ton contained therein, and a fraction of a quarter of a ton shall be deemed and considered as a whole quarter of a ton. 14-15 V., c. 51, s. 14.

A fraction of
a mile to be
considered as
a whole one
in charging
tolls.

Table of tolls to be stuck up in offices and cars.

27. The Directors shall, from time to time, print and stick up, or cause to be printed and stuck up, in the office, and in all and every of the places where the tolls are to be collected, and in every passenger car, in some conspicuous place there, a printed board or paper exhibiting all the tolls payable, and particularizing the price or sum of money to be charged or taken for the carriage of any matter or thing. 14-15 V., c. 51, s. 14.

Tolls to be approved of by the Governor.

28. No tolls shall be levied or taken until approved of by the Governor in Council, nor until after two weekly publications in the *Canada Gazette* of the By-law establishing such tolls, and of the Order in Council approving thereof. 14-15 V., c. 51, s. 14. See 10-11 V., c. 63, s. 14.

The Governor may revise by-laws fixing tolls.

29. Every By-law fixing and regulating tolls shall be subject to revision by the Governor in Council from time to time, after approval thereof as aforesaid; and after an Order in Council, reducing the tolls fixed and regulated by any By-law, has been twice published in the *Canada Gazette*, the tolls mentioned in such Order in Council shall be substituted for those mentioned in the By-law so long as the Order in Council remains unrevoked. 14-15 V., c. 51, s. 14.

10. GENERAL MEETINGS.

Shareholders may hold general meetings.

30. The Shareholders may assemble together at general meetings for purposes connected with or belonging to the undertaking, and at any annual general meeting, and may elect Directors in the manner provided by the next succeeding clause. 14-15 V., c. 51, s. 15.

11. PRESIDENT AND DIRECTORS—THEIR ELECTION AND DUTIES.

Board of directors.

31. A Board of Directors of the undertaking to manage its affairs, the number whereof shall be stated in the Special Act, shall be chosen annually by a majority of the Shareholders voting at such election at a general meeting, the time and place for which shall be appointed by the Special Act, and if such election is not held on the day so appointed, the Directors shall notify and cause such election to be held within thirty days after the day appointed. 14-15 V., c. 51, s. 16.

Who entitled to vote.

32. On the day so notified, no person shall be admitted to vote except those who would have been entitled to vote had the election been held on the day when it ought to have been held. 14-15 V., c. 51, s. 16.

Vacancies, how to be filled up.

33. Vacancies in the Board of Directors shall be filled in the manner prescribed by the By-laws. 14-15 V., c. 51, s. 16.

34. No person shall be a Director unless he is a stockholder, owning stock absolutely in his own right, and qualified to vote for Directors at the election at which he is chosen. 14-15 V., c. 51, s. 16.

Who qualified to be a director.

35. The method of calling general meetings, and the time and place of the first meeting of stockholders for the appointment of Directors, shall be determined and settled in the Special Act.

Calling of special meetings, &c.

36. The number of votes to which each shareholder shall be entitled on every occasion when the votes of the members are to be given, shall be in the proportion to the number of shares held by him, unless otherwise provided by the Special Act.

Votes to be in proportion to shares.

37. All shareholders, whether resident in this Province or elsewhere, may vote by proxy, if they see fit; Provided that such proxy produce, from his constituent an appointment in writing, in the words or to the effect following, that is to say:

Shareholders may vote by proxy.

I, _____, of _____, one of the shareholders of the _____, do hereby appoint _____ of _____, to be my proxy, and in my absence to vote or give my assent to any business, matter or thing relating to the said undertaking, that may be mentioned or proposed at any meeting of the shareholders of the said Company, or any of them, in such manner as he, the said _____ thinks proper. In witness whereof, I have hereunto set my hand and seal, the _____ day of _____, in the year _____.

38. The votes by proxy shall be as valid as if the principals had voted in person; and every matter or thing proposed or considered in any public meeting of the shareholders shall be determined by the majority of votes and proxies then present and given, and all decisions and acts of any such majority shall bind the Company and be deemed the decisions and acts of the Company.

Votes by proxy to be valid.

39. The Directors first appointed, or those appointed in their stead, in case of vacancy, shall remain in office until the next annual election of Directors at the time appointed therefor, at which time an annual general meeting of the shareholders shall be held to choose Directors for the ensuing year, and generally to transact the business of the Company.

Term of office of directors.

40. In case of the death, absence or resignation of any of the Directors, others may be appointed in their stead by the surviving directors; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors. 14-15 V., c. 51, s. 16.

Vacancies, how supplied.

President.

41. The Directors shall, at their first or at some other meeting after the day appointed for the annual general meeting, elect one of their number to be the President of the Company, who shall always when present, be the Chairman of and preside at all meetings of the Directors, and shall hold his office until he ceases to be a Director, or until another President has been elected in his stead; and they may in like manner elect a Vice-President, who shall act as Chairman in the absence of the President.

Vice-president.

Quorum.

42. The Directors at any meeting at which not less than a quorum, to be settled by the Special Act, are present, shall be competent to use and exercise all and any of the powers vested in the Directors.

Acts of majority to bind the whole.

43. The act of a majority of a quorum of the Directors present at any meeting regularly held, shall be deemed the act of the Directors. *Ibid*, s. 16, No. 7.

Casting vote.

44. No Director shall have more than one vote at any meeting except the Chairman, who shall, in case of a division of equal numbers, have the casting vote.

Directors to be subject to shareholders and by-laws.

45. The Directors shall be subject to the examination and control of the shareholders at their annual meetings, and be subject to all By-laws of the Company, and to the orders and directions from time to time made at the annual or at any special meetings, such orders and directions not being contrary to any express directions or provisions of this Act or the Special Act.

Officers of company cannot be directors.

46. No person holding any office, place or employment in or being concerned or interested in any contracts under or with the Company, shall be capable of being chosen a Director, or of holding the office of Director, nor shall any person being a Director of the Company enter into, or be directly or indirectly, for his own use and benefit, interested in any contract with the Company, not relating to the purchase of land necessary for the Railway or be or become a partner of any contractor with the Company; and no contracts for works of construction or maintenance of Railways, except works of ordinary repair, or of immediate necessity, shall be entered into until after tenders for such works respectively have been invited by public notice therefor, given for at least four weeks in some newspaper published in the place nearest to the work required to be done; but no Company shall be compelled to accept of any such tender; and in the event of any such contract made since the thirtieth of June, one thousand eight hundred and fifty-eight, or made after this Act takes effect, by or on behalf of any Director, an action shall lie in any Court of Common Law, or other Court of competent jurisdiction against such Director, at the suit

of any shareholder or stockholder of the Company, for the benefit of the funds thereof, for the whole amount of profit accruing to such Director from the contract so made or fulfilled. 14-15 V., c. 51, s. 16, No. 8.—22 V., c. 4, s. 1.

47. The Directors shall make By-laws for the management and disposition of the stock, property, business and affairs of the Company, not inconsistent with the laws of this Province, and for the appointment of all officers, servants and artificers, and prescribing their respective duties. *Ibid*, s. 16, No. 9.

By-laws for management of stock, &c.

12. CALLS.

48. The Directors may from time to time make such calls of money upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they deem necessary, and thirty days' notice at the least shall be given of each call, and no call shall exceed the prescribed amount determined in the Special Act, or be made at a less interval than two months from the previous call, nor shall a greater amount be called in, in any one year, than the amount prescribed in the Special Act. *Ibid*, No. 10.

Calls.

49. All notices of meetings or of calls upon the shareholders of the Company shall be published weekly in the *Canada Gazette*, and the said Gazette shall, on production thereof, be conclusive evidence of the sufficiency of such notices. *Ibid*, No. 24.

Notice of meetings, how published.

50. Every shareholder shall be liable to pay the amount of the call so made in respect of the shares held by him to the persons, and at the times and places from time to time appointed by the Company or the Directors.

Payment of calls, how to be made.

51. If before or on the day appointed for payment, any shareholder does not pay the amount of the call, he shall be liable to pay interest for the same, at the rate of six per centum per annum, from the day appointed for the payment thereof to the time of the actual payment.

Interest to be chargeable on unpaid calls.

52. If at the time appointed for the payment of any call, any shareholder fails to pay the amount of the call, he may be sued for the same, in any Court of Law or Equity having competent jurisdiction, and the same may be recovered with lawful interest from the day on which the call became payable.

Amount of call may be recovered by suit.

53. In any action or suit to recover any money due upon any call, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is the holder of one share or more, stating the number

What formalities necessary in actions for calls.

of shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more upon one share or more, stating the number and amount of each of such calls, whereby an action hath accrued to the Company by virtue of the Special Act.

Certificate of
proprietor-
ship *primâ*
facie evi-
dence.

54. The certificate of proprietorship of any share shall be admitted in all courts, as *primâ facie* evidence of the title of any shareholder, his executors, administrators, successors or assigns, to the share therein specified.

55. But the want of such certificate shall not prevent the holder of any share from disposing thereof.

Penalty for
refusal to pay
calls.

56. Any persons neglecting or refusing to pay a rateable share of the calls as aforesaid, for the space of two months after the time appointed for the payment thereof, shall forfeit their respective shares in the undertaking, and all the profit and benefit thereof; all which forfeitures shall go to the Company for the benefit thereof.

Forfeiture of
share to be
taken advan-
tage of only
at a general
meeting.

57. No advantage shall be taken of the forfeiture, unless the same is declared to be forfeited at a general meeting of the Company, assembled at any time after such forfeiture incurred.

Effect of for-
feiture as to
liabilities.

58. Every such forfeiture shall be an indemnification to and for every shareholder so forfeiting against all actions, suits or prosecutions whatever, commenced or prosecuted for any breach of contract or other agreement between such shareholder and the other shareholders with regard to carrying on the undertaking.

Directors may
sell forfeited
shares by
auction.

59. The Directors may sell, either by public auction or private sale, and in such manner and on such terms as to them seem meet, any shares so declared to be forfeited, and also any shares remaining unsubscribed for in the capital stock of the Company, or pledge such forfeited or unsubscribed shares for the payment of loans or advances made or to be made thereon, or of any sums of money borrowed or advanced by or to the Company.

Certificate of
Treasurer to
be evidence of
forfeiture and
of title.

60. A certificate of the Treasurer of the Company that the forfeiture of the shares was declared, shall be sufficient evidence of the fact, and of their purchase by the purchaser, and such certificate, with the receipt of the Treasurer for the price of such shares, shall constitute a good title to the shares, and the certificate shall be by the said Treasurer enregistered in the name and with the place of abode and occupation of the purchasers, and shall be entered in the books required to be kept by the By-laws of the Company, and such purchaser shall thereupon be deemed the holder of

such shares, and shall not be bound to see to the application of the purchase money, nor shall his title to such shares be affected by any irregularity in the proceedings in reference to such sale, and any shareholder may purchase any shares so sold.

61. Shareholders willing to advance the amount of their shares, or any part of the money due upon the respective shares beyond the sums actually called for, may pay the same, and upon the principal moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares, in respect to which such advance is made, the Company may pay interest at the legal rate of interest for the time being, as the shareholders paying such sum in advance and the Company agree upon; but such interest shall not be paid out of the capital subscribed.

Interest may be allowed to shareholders paying money in advance on their shares.

62. The Directors shall cause to be kept, and annually on the thirty-first day of December shall cause to be made up and balanced, a true, exact and particular account of the money collected and received by the Company, or by the Directors or Managers thereof, or otherwise, for the use of the Company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the Company or the Directors.

Directors to cause annual accounts to be kept.

63. At the general meetings of the shareholders of the undertaking, from time to time holden, a dividend shall be made out of the clear profits of the undertaking, unless such meetings declare otherwise.

Declaration of dividend.

64. Such dividend shall be at and after the rate of so much per share upon the several shares held by the shareholders in the stock of the Company, as such meeting think fit to appoint or determine.

At so much per share.

65. No dividend shall be made whereby the capital of the Company is in any degree reduced or impaired, or be paid thereout, nor shall any dividend be paid in respect of any share, after a day appointed for payment of any call for money in respect thereof, until such call has been paid.

Dividends not to impair the capital.

66. The Directors, may, in their discretion, until the Railroad is completed and opened to the public, pay interest at any rate not exceeding six dollars per hundred dollars per annum, on all sums called up in respect of the shares, from the respective days on which the same have been paid, such interest to accrue and be paid at such times and places as the Directors appoint for that purpose.

Directors may pay interest on sums called up in respect of shares.

No interest on shares in arrear.

67. No interest shall accrue to the proprietors of any share upon which any call is in arrear in respect of such shares or any other share to be holden by the same shareholder while such call remains unpaid, nor shall any interest be paid or taken from the capital subscribed.

May appoint officers.

68. The Directors shall from time to time appoint such officers as they deem requisite, and shall take sufficient security, by one or more penal bonds, or otherwise, from the Manager and officers for the time being, for the safe keeping and accounting by them respectively of the moneys raised by virtue of this Act and the Special Act, and for the faithful execution of their offices, as the Directors think proper.

Vice-president to act in the absence of the president.

69. In case of the absence or illness of the President, the Vice-President shall have all the rights and powers of the President, and may sign all Notes, Bills, Debentures, and other Instruments, and perform all acts which by the Regulations and By-laws of the Company or by the Acts incorporating the Company are required to be signed, performed and done by the President.

Absence of president may be entered in the minutes, and certified, &c.

70. The Directors may at any meeting require the Secretary to enter such absence or illness among the proceedings of such meeting, and a certificate thereof signed by the Secretary shall be delivered to any person or persons requiring the same on payment to the Treasurer of one dollar, and such certificate shall be taken and considered as *primâ facie* evidence of such absence or illness, at and during the period in the said certificate mentioned, in all proceedings in Courts of Justice or otherwise. 14-15 V., c. 51, s. 16.

13. SHARES AND THEIR TRANSFER.

Shareholders may dispose of shares.

71. Shares in the undertaking may, by the parties, be sold and disposed of by instrument in writing, to be made in duplicate, one part of which shall be delivered to the Directors, to be filed and kept for the use of the Company, and an entry thereof shall be made in a book to be kept for that purpose; and no interest on the shares transferred shall be paid by the purchaser until such duplicate is so delivered, filed and entered. 14-15 V., c. 51, s. 17.

Form of sale.

72. Sales shall be in the form following, varying the names and descriptions of the contracting parties, as the case may require:

I, A. B., in consideration of the sum of _____, paid to me by C. D., hereby do sell and transfer to him _____ share (or shares) of the stock of the _____, to hold to him the said C. D. his heirs, executors, administrators and

assigns. subject to the same rules and orders, and on the same conditions that I held the same immediately before the execution thereof. And I, the said C. D. do hereby agree to accept of the said share (or shares) subject to the same rules, orders and conditions. Witness our hands this day of in the year 18 .

73. The stock of the Company shall be deemed personal estate, but no shares shall be transferable until all previous calls thereon have been fully paid in, or the said shares have been declared forfeited for the non-payment of calls thereon, and no transfer of less than a whole share shall be valid. 14-15 V., c. 51, s. 17.

Stock to be personal estate—transfer of.

74. If any share in the Company be transmitted by the death, bankruptcy or last will, donation or testament, or by the intestacy of any shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the party to whom such share is so transmitted, shall deposit in the office of the Company a statement in writing, signed by him, declaring the manner of such transmission, together with a duly certified copy or probate of such will, donation or testament, or sufficient extracts therefrom, and such other documents or proof as may be necessary, and without which such party shall not be entitled to receive any share of the profits of the Company, nor vote in respect of any such share as the holder thereof. 14-15 V., c. 51, s. 17.

Transmission of shares, other than by transfer provided for.

14. MUNICIPALITIES.

75. Municipal corporations in this Province may subscribe for any number of shares in the capital stock of, or lend to or guarantee the payment of any sum of money borrowed by the Company from any corporation or person, or indorse or guarantee the payment of any Debenture to be issued by the Company for the money by them borrowed, and may assess and levy from time to time upon the whole rateable property of the Municipality a sufficient sum for them to discharge the debt or engagement so contracted, and for the like purpose may issue Debentures payable at such times and for such sum respectively, not less than twenty dollars, and bearing or not bearing interest, as such Municipal corporation thinks meet. 14-15 V., c. 51, s. 18.

Municipal corporations may take stock.

76. Any such debenture issued, endorsed or guaranteed, shall be valid and binding upon the municipal corporation, if signed or endorsed and countersigned by the officer or person, and in such manner and form as directed by any By-law of the corporation, and the corporation seal thereto shall not be necessary, nor the observance of any other form with regard to the Debentures than such as directed in the By-law. 14-15 V., c. 51, s. 18.

Debentures issued by them to be binding.

They cannot subscribe for stock unless by-laws are made for that purpose.

77. No Municipal corporation shall subscribe for stock or incur any debt or liability under this Act or the Special Act, unless and until a By-law to that effect has been duly made and adopted with the consent first had of a majority of the qualified electors of the Municipality, to be ascertained in the manner determined by the By-law, after public advertisement thereof containing a copy of such proposed By-law, inserted at least four times in each newspaper printed within the limits of the Municipality, or if none be printed therein, then in some one or more newspapers printed in the nearest City or Town thereto and circulated therein, and also put up in at least four of the most public places in each Municipality. 14-15 V., c. 51, s. 18.

Mayor, &c., to be *ex officio* a director in certain cases.

78. The Mayor, Warden or Reeve, being the Head of such Municipal Corporation, subscribing for and holding stock in the Company to the amount of twenty thousand dollars or upwards, shall be *ex officio* one of the Directors of the Company, in addition to the number of Directors authorized by the Special Act, and shall have the same rights, powers and duties as any of the Directors of the Company. 14-15 V., c. 51, s. 18.

Mayor, &c., not to vote for directors of companies incorporated before 1st June, 1853.

79. No such Mayor, Warden, Reeve or other chief officer or other person representing any Municipality having or taking stock in any Railway Company shall, directly or indirectly, vote on the election or appointment of the private Directors of any Railway Company incorporated previous to or during the Session held in the sixteenth year of Her Majesty's Reign, unless the Special Act of incorporation of such Company expressly provides therefor. 16 V., c. 169, s. 5.

15. SHAREHOLDERS.

Shareholders individually liable.

80. Each shareholder shall be individually liable to the creditors of the Company to an amount equal to the amount unpaid on the stock held by him, for the debts and liabilities thereof, and until the whole amount of his stock has been paid up; but shall not be liable to an action therefor before an execution against the Company has been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable with costs against such shareholders. 14-15 V., c. 51, s. 19.

Stock may be increased.

81. The original capital stock may be increased from time to time to any amount, but such increase must be sanctioned by a vote in person or by proxy, of at least two-thirds in amount of all the shareholders, at a meeting of them expressly called by the Directors for that purpose, by a notice in writing to each shareholder, served on him personally, or properly directed to him, and deposited in the post office

nearest to his place of residence, at least twenty days previous to such meeting, stating the time and place and object of the meeting, and the amount of increase; and the proceedings of such meeting must be entered on the minutes of the proceedings, and thereupon, the capital stock may be increased to the amount sanctioned by such a vote. 14-15 V., c. 51, s. 19.

82. The funds of the Company shall not be employed in the purchase of any stock in their own or in any other Company. 14-15 V., c. 51, s. 19. Company not to take stock in other companies.

16. ACTIONS FOR INDEMNITY, AND FINES AND PENALTIES AND THEIR PROSECUTION.

83. All suits for indemnity for any damage or injury sustained by reason of the Railway, shall be instituted within six months next after the time of such supposed damage sustained, or if there be continuation of damage, then within six months next after the doing or committing such damage ceases, and not afterwards; and the defendants may plead the general issue and give this Act and the Special Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by authority of this Act and the Special Act. 14-15 V., c. 51, s. 20. Limitation of actions for damages.

84. Every person who, by any means or in any manner or way whatsoever, obstructs or interrupts the free use of the Railway, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the common gaol of the District or County where the conviction takes place, or in the Provincial Penitentiary, for a term not to exceed five years. 14-15 V., c. 51, s. 20. Penalty on persons obstructing free use of railway.

85. All persons wilfully and maliciously, and to the prejudice of the Railway, breaking, throwing down, damaging or destroying the same or any part thereof, or any of the buildings, stations, depots, wharves, vessels, fixtures, machinery or other works or devices incidental and relative thereto or connected therewith, or doing any other wilful hurt or mischief, or wilfully or maliciously obstructing or interrupting the free use of the Railway, vessels or works, or obstructing, hindering, or preventing the carrying on, completing, supporting and maintaining the Railway, vessels or works, shall be guilty of a misdemeanor, unless the offence committed amounts, under some other Act or law, to a felony, in which case such person shall be guilty of a felony, and the Court by and before whom the person is tried and convicted, may cause such person to be punished Penalty on persons damaging railway.

in like manner as persons guilty of misdemeanor or felony (*as the case may be*) are directed to be punished by the laws in force in this Province. 14-15 V., c. 51, s. 20.

Fines, how recovered.

86. All fines and forfeitures imposed by this Act or the Special Act, or by any By-law, the levying and recovering of which are not particularly herein directed, shall, upon proof of the offence before any one or more Justice or Justices of the Peace for the District, County or place where the act occurred, either by the confession of the party, or by the oath or affirmation of any one credible witness, to be administered without fee or reward, be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of hands and seals of such Justice or Justices. 14-15 V., c. 51, s. 20.

How applicable.

87. All fines, forfeitures and penalties, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer of the Company, to be applied to the use thereof, and the overplus of the money so raised, after deducting the penalty and the expenses of the levying and recovering thereof, shall be returned to the owner of the goods so distrained and sold. 14-15 V., c. 51, s. 20.

When party may be committed.

88. In case sufficient goods and chattels whereof to levy the penalty and expense, are not found, the offender shall be sent to the common gaol for the County or District in which he has been convicted, there to remain without bail or mainprize, for such term, not exceeding one month, as the Justice or Justices think proper, unless the penalty or forfeiture, and all expenses attending the same, be sooner paid and satisfied.

Appeal.

89. Every such person or persons may, within four months after the conviction, appeal against the same to the Court of General Quarter Sessions, to be holden in and for the County or District. 14-15 V., c. 51, s. 20.

Contravention of this Act, &c., to be a misdemeanor.

90. All contraventions of this Act or of the Special Act, by the Company or by any other party, for which no punishment or penalty is herein provided, shall be a misdemeanor, and shall be punishable accordingly; but such punishment shall not exempt the Company, if they be the offending party, from the forfeiture by this Act and the Special Act, of the privileges conferred on them by the said Acts, if by the provisions thereof or by law, the same be forfeited by such contravention. 14-15 V., c. 51, s. 20.

17. BY-LAWS—NOTICES, &c.

By-laws to be put into writing and sign-

91. All By-laws, Rules and Orders regularly made, shall be put into writing and signed by the Chairman or person

presiding at the meeting at which they are adopted, and shall be kept in the office of the Company; and a printed copy of so much of them as relates to or affects any party other than the members or servants of the Company, shall be affixed openly in all and every passenger car, and in all and every place where tolls are to be gathered, and in like manner so often as any change or alteration is made to the same; and any copy of the same, or of any of them, certified as correct by the President or Secretary, shall be deemed authentic, and shall be received as evidence thereof in any Court, without further proof. 14-15 V., c. 51, s. 20, No. 6.

ed by chair-
man.

92. All such By-laws, Rules and Orders shall be submitted from time to time to the Governor, for approval. 14-15 V., c. 51, s. 20.

By-laws to be
submitted to
Governor.

93. Copies of the minutes of proceedings and resolutions of the shareholders of the Company, at any general or special meeting; and of the minutes of proceedings and resolutions of the Directors, at their meetings, extracted from the minute-books kept by the Secretary of the Company and by him certified to be true copies extracted from such minute-books, shall be *prima facie* evidence of such proceedings and resolutions in all Courts of civil jurisdiction.

Copies of
minutes to be
prima facie
evidence.

94. All notices given by the Secretary of the Company, by order of the Directors, shall be deemed notices by the Directors and Company. 14-15 V., c. 51, s. 20.

Notices by
secretary,
valid.

18. WORKING OF THE RAILWAY.

95. Every servant of the undertaking employed in a passenger train or at a station for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and he shall not without such badge be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, nor meddle or interfere with any passenger or his baggage or property. 14-15 V., c. 51, s. 21.

Servants to
wear badges.

96. The trains shall start and run at regular hours to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and goods as are within a reasonable time previous thereto offered for transportation at the place of starting, and at the junctions of other Railways and at usual stopping places established for receiving and discharging way-passengers and goods from the trains. 14-15 V., c. 51, s. 21.

Trains to start
at regular
hours.

97. Such passengers and goods shall be taken, transported and discharged, at, from, and to such places, on the due payment of the toll, freight or fare legally authorized therefor. 14-15 V., c. 51, s. 21.

Passengers
and goods to
be carried on
payment of
fare or freight.

The company
liable for ne-
glect or re-
fusal.

98. The party aggrieved by any neglect or refusal in the premises, shall have an action therefor against the Company. 14-15 V., c. 51, s. 21.

Checks to be
fixed on par-
cels.

99. Checks shall be affixed by an agent or servant to every parcel of baggage having a handle, loop or fixture of any kind thereupon, and a duplicate of such check shall be given to the passenger delivering the same. 14-15 V., c. 51, s. 21.

Penalty for
refusing to
give checks.

100. If such check be refused on demand, the Company shall pay to such passenger the sum of eight dollars, to be recovered in a civil action; and further, no fare or toll shall be collected or received from such passenger, and if he has paid his fare, the same shall be refunded by the conductor in charge of the train. 14-15 V., c. 51, s. 21.

Passenger a
witness in his
own behalf.

101. Any passenger producing such check, may himself be a witness in any suit brought by him against the Company, to prove the contents and value of his baggage not delivered to him. 14-15 V., c. 51, s. 21.

Baggage cars
not to be in
rear of pas-
senger cars.

102. The baggage, freight, merchandize or lumber cars shall not be placed in rear of the passenger cars, and if any such be so placed, the officer or agent directing or knowingly suffering such arrangement, and the conductor of the train, shall severally be guilty of a misdemeanor, and be punished accordingly. 14-15 V., c. 51, s. 21.

Locomotives
to have bells
or steam
whistles.

103. Every locomotive engine shall be furnished with a bell of at least thirty pounds weight, or with a steam whistle. 14-15 V., c. 51, s. 21.

To be rung or
sounded at
every cross-
ing, &c.

104. The bell shall be rung, or the whistle sounded at the distance of at least eighty rods from every place where the Railway crosses any highway, and be kept ringing or be sounded at short intervals, until the engine has crossed such highway, under a penalty of eight dollars for every neglect thereof, to be paid by the Company, who shall also be liable for all damages sustained by any person by reason of such neglect, one half of which penalty and damages shall be chargeable to and collected by the Company from the engineer having charge of such engine and neglecting to sound the whistle or ring the bell as aforesaid. 14-15 V., c. 51, s. 21.

Intoxication
of conductor a
misdemeanor.

105. All persons in charge of a locomotive engine, or acting as the conductor of a car or train of cars, who is intoxicated shall be deemed guilty of a misdemeanor. 14-15 V., c. 51, s. 21.

Passenger re-
fusing to pay
fare may be
put out.

106. Any passenger refusing to pay his fare, and his baggage, may, by the conductor of the train, and the serv-

ants of the Company, be put out of the cars at any usual stopping place, or near any dwelling house, as the conductor elects, the conductor first stopping the train and using no unnecessary force. 14-15 V., c. 51, s. 21.

107. Any passenger injured while on the platform of a car, or on any baggage, wood, or freight car, in violation of the printed regulations posted up at the time in a conspicuous place inside of the passenger cars then in the train, shall have no claim for the injury, provided room inside of such passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time. 14-15 V., c. 51, s. 21.

Passengers to have no claim if injured when on platform of cars, &c.

19. GENERAL PROVISIONS.

108. The Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares may be subject; and the receipt of the party in whose name any share stands in the books of the Company, or if it stands in the name of more parties than one, the receipt of one of the parties named in the register of shareholders shall, from time to time, be a sufficient discharge to the Company for any dividend or other sum of money payable in respect to the share, notwithstanding any trust to which the share may then be subject, and whether or not the Company have had notice of the trusts, and the Company shall not be bound to see to the application of the money paid upon such receipts. 14-15 V., c. 51, s. 22.

Company not bound to see to execution of trusts.

109. Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables and others travelling on Her Majesty's service, shall, at all times, when thereunto required by Her Majesty's Provincial Postmaster General, the Commander of the Forces, or any person having the superintendence or command of any Police Force, and with the whole resources of the Company if required, be carried on the Railway, on such terms and conditions, and under such regulations as the Governor in Council makes. 14-15 V., c. 51, s. 22,—12 V., c. 28, s. 1.

Provision as to the carriage of Her Majesty's mail, &c.

110. The Governor, or any person thereunto authorized by him, may require the Company to place any electric telegraph, and the apparatus and operators they may have, at the exclusive use of the Government, receiving thereafter reasonable compensation for such service. 14-15 V., c. 51, s. 22.

111. Any further enactments which the Legislature of this Province may hereafter make, for the carriage of the Mail or Her Majesty's Forces, and other persons and articles

as aforesaid, or the tolls therefor, or in any way respecting the use of any electric telegraph, or other service to be rendered to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act or the Special Act. 14-15 V., c. 51, s. 22.

Account of names and residence of shareholders to be kept.

112. A true and perfect account of the names and places of abode of the several shareholders shall be entered in a book to be kept for that purpose, as well as of the several persons who from time to time become proprietors of, or entitled to any shares therein, and of all the other acts, proceedings and transactions of the Company and of the Directors for the time being. 14-15 V., c. 51, s. 22.

Map, &c., of railway to be filed in the Board of Works Office.

113. A map and profile of the completed Railway and of the land taken or obtained for the use thereof, shall, within a reasonable time after completion of the undertaking, be made and filed in the office of the Commissioners of Public Works, and like maps of the parts thereof located in different Counties, shall be filed in the Registry Offices for the Counties in which such parts are respectively situate. 14-15 V., c. 51, s. 22.

On what scale and paper to be drawn.

114. Every such map shall be drawn on such a scale, and on such paper, as may from time to time be designated for that purpose by the Chief Commissioner of Public Works, and shall be certified and signed by the President or Engineer of the Corporation. 14-15 V., c. 51, s. 22.

Account to be submitted to Legislature.

115. After the opening of the Railway or any part thereof to the public, and within the first fifteen days after the opening of each Session of the Provincial Parliament, an account shall be annually submitted to the three branches of the Legislature, containing a detailed and particular account, attested upon oath of the President, or in his absence of the Vice-President, of the moneys received and expended by the Company, and a classified statement of the passengers and goods transported by them, with an attested copy of the last annual statement. 14-15 V., c. 51, s. 22.

Variation in form or details may be made.

116. No further provisions which the Legislature may hereafter make with regard to the form or details of such account, or the mode of attesting or rendering the same, shall be deemed an infringement of the privileges hereby granted to the Company. 14-15 V., c. 51, s. 22.

Ten per cent. to be paid within three years from passing of Special Act.

117. If the construction of the Railway be not commenced, and ten per cent. on the amount of the capital be not expended thereon, within three years after the passing of the Special Act, or if the Railway is not finished and put in operation in ten years from the passing of such Special Act, the corporate existence and powers of the Company shall cease. 14-15 V., c. 51, s. 22.

118. The Legislature of this Province may, from time to time, reduce the tolls upon the railway, but not without consent of the Company, or so as to produce less than fifteen per cent. per annum profit on the capital actually expended in its construction; nor unless, on an examination made by the Commissioners of Public Works of the amount received and expended by the company, the net income from all sources, for the year then last passed, is found to have exceeded fifteen per cent. upon the capital so actually expended. *Ibid.*

When Parliament may reduce tolls on railways.

119. No person shall be entitled to carry or to require the company to carry upon their railway, *aqua fortis*, oil of vitrol, gunpowder, lucifer matches, or any other goods which, in the judgment of the company, may be of a dangerous nature; and if any person sends by the said railway any such goods without, at the time of so sending the said goods, distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice in writing to the book-keeper or other servant of the company with whom the same are left, he shall forfeit to the company the sum of twenty dollars for every such offence. *Ibid.*

As to goods of a dangerous nature.

120. The company may refuse to take any package or parcel which they suspect to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact. *Ibid.*

Dangerous goods may be refused.

121. The offence of forging any debentures or a *coupon* of any debenture issued under the authority of this Act or of the Special Act, or of uttering any such debenture or *coupon*, knowing the same to be forged, or of being accessory before or after the fact to any such offence, shall be deemed felony, and be punished accordingly. *Ibid.*

Forging debentures, &c., deemed felony.

122. The company shall make and keep in repair all fences, roads and water courses, and be subject to all municipal regulations and provisions in respect thereof in or for lands belonging to or held by the company, and subject to any such regulations, or to any charges, public, municipal or local, as the case may be, in any county, parish or township in Lower Canada through which the railway passes; and the company may, in default or contravention thereof, be prosecuted therefor by the officers of the municipality, before the Commissioners' Court or Circuit Court within the jurisdiction of which such fence, road or water course may be, and the service of the summons upon any clerk or officer in charge of the section of the railway within the said jurisdiction, or at the nearest depot of the railway, shall be good service upon the company. *Ibid.*

Company bound to make and repair fences, roads, &c., in L. C., &c.

Special Act to be a Public Act.

123. Every Special Railway Act shall be a Public Act.

And may dissolve any corporation formed under this Act.

124. The Legislature may at any time annul or dissolve any corporation formed under this Act; but such dissolution shall not take away or impair any remedy given against any such corporation, its shareholders, officers or servants, for any liability which had been previously incurred. *Ibid.*

Saving of Her Majesty's rights, &c.

125. Nothing herein contained shall affect in any manner the rights of Her Majesty, or of any person, or of any body politic, corporate or collegiate, such only excepted as are herein mentioned. *Ibid.*

126. No amendment or alteration in this Act shall be held to be an infringement of the rights of any company authorized to construct a railway by any Act passed on or since the 30th of August, 1851, or by any Act of this or any future Session with which this Act is incorporated. 14-15 V., c. 51, s. 22.

GENERAL PROVISIONS FOR ALL RAILWAYS.

Interpretation.

127. Unless otherwise provided, the following sections shall apply to every Railway made or to be made in this Province. 16 V., c. 169, s. 10.

20. POWERS.

Any railway company may construct branch railways, on certain conditions.

128. Any incorporated Railway Company may construct a branch or branches not exceeding six miles in length from any terminus or station of the Railway of such Company, whenever a By-law sanctioning the same has been passed by the Municipal Council of the Municipality within the limits of which such proposed branch is situate, and no such branch shall, as to the quality and construction of the road, be subject to any of the restrictions contained in the Special Act of incorporation of such Company or in this Act, nor shall any thing in either of the said Acts authorize any Company to take for such branch any lands belonging to any party without the consent of such party first obtained. 16 V., c. 169, s. 9.

Changes may be made in the line of a railway at any time for certain purposes.

129. Any Railway Company desiring at any time to change the location of its line of Railway in any particular part for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting such line of Railway, or for any other purpose of public advantage, may make such change; and all and every the clauses of this Act shall refer as fully to the part of any such line of Railway so at any time changed or proposed to be changed as to the original line; but no Railway Company shall have any right to extend its line of Railway beyond the termini mentioned in the Act incorporating such Company. 22 V., (1858) c. 4, s. 2.

130. No Railway Company shall avail itself of any of the powers contained in the fifteenth sub-section of the ninth section of this Act without application to the Board of Railway Commissioners, constituted by the one hundred and seventy-eighth section of this Act, of which application notice in writing shall be given to any other Railway affected, by sending the same by mail, or otherwise, to the address of the President, Superintendent, Managing Director or Secretary of any such Railway Company, for approval, of the mode of crossing, union or intersection proposed; and when such approval has been obtained, it shall be lawful for either Railway, in case of disagreement as to the amount to be paid for compensation, to proceed for such compensation as provided in the said sub-section. 22 V., c. 4, s. 2,—14-15 V., c. 51, s. 9, No. 15.

But not without application to the Board of Railway Commissioners.

131. The Directors of any Railway Company may at any time, and from time to time, make and enter into any agreement or arrangement with any other Company, either in this Province or elsewhere, for the regulation and interchange of traffic passing to and from the Railways of the said Companies, and for the working of the traffic over the said Railways respectively, or for either of those objects separately, and for the division and apportionment of tolls, rates and charges in respect of such traffic, and generally in relation to the management and working of the Railways, or any of them, or any part thereof, and of any Railway or Railways in connection therewith, for any term not exceeding twenty-one years, and to provide, either by proxy or otherwise, for the appointment of a Joint Committee or Committees for the better carrying into effect any such agreement or arrangement, with such powers and functions as may be considered necessary or expedient, subject to the consent of two thirds of the stockholders voting in person or by proxy. 22 V., c. 4, s. 2.

One company may agree with another respecting traffic.

132. The provisions of the three last sections of this Act shall, from the time it takes effect apply to every Railway made or to be made in this Province, but shall not apply to any thing done before the thirtieth of June, one thousand eight hundred and fifty-eight. 22 V., c. 4, s. 2.

Application of the three last sections.

21. LANDS AND THEIR VALUATION.

133. No Railway Company shall take possession of, use or occupy any lands vested in Her Majesty, without the consent of the Governor in Council; but with such consent any such Company may take and appropriate for the use of their Railway and works, but not alienate, so much of the wild lands of the Crown lying on the route of the said Railway, as have not been granted or sold, and as may be necessary for their Railway, as also so much of the land

Conditions on which the company may carry their railway across any canal, rivers or navigable water.

covered with the waters of any lake, river, stream or canal, or of their respective beds, as is necessary for making and completing and using their said Railway and Works; but nothing in this section contained, shall apply to the thirty and thirty-first paragraphs of the eleventh section of this Act. 16 V., c. 169, s. 8.

22. RAILWAY GROUNDS TO BE KEPT IN ORDER.

Ground adjoining any railway and belonging to the company to be laid down with grass and cleared of weeds, &c.

134. Every Railway Company, whether any of the clauses or provisions of this Act be or be not incorporated with the Act incorporating such Company, shall cause all cleared land or ground adjoining their Railway and belonging to such Company, to be sown or laid down with grass or turf, and cause the same so far as may be in their power to be covered with grass or turf, if not already so covered, and cause all thistles and other noxious weeds growing on such land or ground, to be cut down and kept constantly cut down or to be rooted out of the same. 16 V., c. 169, s. 7.

Consequences of omitting to do so.

135. If any Railway Company fails to comply with the requirements of the last preceding section within twenty days after they have been required to comply with the same, by notice from the Mayor, Reeve, or Chief Officer of the Municipality of the Township or County in which the land or ground lies, such Company shall thereby incur a penalty of two dollars to the use of the Municipality for each day during which they neglect to do anything which they are lawfully required to do by such notice; and the said Mayor, Reeve or Officer may cause all things to be done which the said Company were lawfully required to do by such notice, and for that purpose may enter by himself and his assistants or workmen upon such lands or grounds; and such Municipality may recover the expenses and charges incurred in so doing, and the said penalty with costs of suit, in any Court having jurisdiction in civil cases to the amount sought to be recovered. 16 V., c. 169, s. 7.

23. HIGHWAYS AND BRIDGES.

Not to impede navigation.

136. No such Company shall cause any obstruction in or impede the free navigation of any river, stream or canal to or across or along which their Railway is carried. 16 V., c. 169, s. 8.

Railways crossing rivers, &c., regulated.

137. If the Railway be carried across any navigable river or canal, the Company shall leave openings between the abutments or piers of their bridge or viaduct over the same, and shall make the same of such clear height above the surface of the water, or shall construct such draw bridge or swing bridge over the channel of the river, or over the whole width of the canal, and shall be subject to such regu-

lations as to the opening of such swing bridge or draw bridge as the Governor in Council from time to time makes. 16 V., c. 169, s. 8.

138. It shall not be lawful for any such Company to construct any wharf, bridge, pier or other work upon or over any navigable river, lake or canal, or upon the beach or bed or lands covered with the waters thereof, until they have first submitted the plan and proposed site of such work to the Governor in Council, and the same has been by him approved; and no deviation from such approved site and plan shall be made without his consent. 16 V., c. 169, s. 8. *Ante* s. 9, No. 3.

Plans to be submitted to the Governor in Council.

139. Nothing contained in the one hundred and thirty-third, one hundred and thirty-sixth, one hundred and thirty-seventh and one hundred and thirty-eighth sections, or in the thirtieth and thirty-first paragraphs of the eleventh section of this Act, shall be construed to limit or affect any power expressly given to any Railway Company by its Special Act of Incorporation, or any Special Act amending the same. 16 V., c. 169, s. 8.

Exception where special powers given by the Special Act.

140. The Governor in Council, upon the report of the Board of Railway Commissioners, may authorize or require any Railway Company to construct fixed and permanent bridges or to substitute such bridges in the place of the swing, draw or movable bridges, on the line of such Railway, within such time as the Governor in Council directs; and for every day after the period so fixed during which the Company uses such swing, draw or movable bridges, the Company shall forfeit and pay to Her Majesty the sum of two hundred dollars; and it shall not be lawful for any Railway Company to substitute any swing, draw or other movable bridge in the place or stead of any fixed or permanent bridge already built and constructed, without the consent of the Governor in Council previously had and obtained. 20 V., c. 12, s. 7.

Governor may order permanent bridges to be substituted for movable bridges.

141. In any case where a Railway commenced after the 27th May, 1857, is constructed or authorized to be constructed across any turnpike road, street or other public highway, on the level, the Board of Railway Commissioners, if it appears to them necessary for the public safety, may, with the sanction of the Governor in Council, authorize and require the Company to whom such Railway belongs, within such time as the said Board directs, to carry such road, street or highway either over or under the said Railway, by means of a bridge or arch, instead of crossing the same on the level, or to execute such other works as under the circumstances of the case appear to the said Board the best adapted for removing or diminishing the danger arising from such level crossing; and all the provisions of law at any such time

Certain powers vested in Railway Commissioners, with respect to crossing public highways on a level.

applicable to the taking of land by Railway Companies and its valuation and conveyance to them, and to the compensation therefor, shall apply to the case of any land required for the construction of any works for effecting the alteration of such level crossing. 20 V., c. 12, s. 11.

Further precautions at level crossings.

142. Every Railway Company shall station an officer at every point on their line crossed on a level by any other Railway, and no train shall proceed over such crossing until signal has been made to the conductor thereof that the way is clear. 20 V., c. 12, s. 11.

Further precautions when one railway crosses another on a level.

143. Every locomotive or Railway engine or train of cars, on any Railway, shall, before it crosses the track of any other Railway on a level, be stopped for at least the space of three minutes. 20 V., c. 12, s. 11.

Or runs through a city, town, &c.

144. No locomotive or Railway engine shall pass in or through any thickly peopled portion of any City, Town or Village at a speed greater than six miles per hour, unless the track is properly fenced. 20 V., c. 12, s. 11.

Or moves reversely.

145. Whenever any train of cars is moving reversely in any City, Town or Village, the locomotive being in the rear, the Company shall station on the last car in the train a person who shall warn parties, standing on or crossing the track of such Railway, of the approach of such train, under a penalty of one hundred dollars for any contravention of the above provisions. 20 V., c. 12, s. 11.

Foot passengers to use foot-bridge, if provided for that purpose at level crossings.

146. If the Board of Railway Commissioners order any Railway Company to erect at or near or in lieu of any level crossing of a turnpike road, or other public highway, a foot-bridge or foot-bridges over their Railway for the purpose of enabling persons passing on foot along such turnpike road or public highway to cross the Railway by means of such bridge or bridges, then, from and after the completion of such foot-bridge or foot-bridges so required to be erected, and while the Company keeps the same in good and sufficient repair, such level crossing shall not be used by foot passengers on the said turnpike road or public highway, except during the time when the same is used for the passage of carriages, carts, horses or cattle along the said road. 20 V., c. 12, s. 12.

No cattle to be allowed to be at large on any highway within half a mile of any railway.

147. No horses, sheep, swine or other cattle, shall be permitted to be at large upon any highway within a half mile of the intersection of such highway with any Railway on grade, unless such cattle are in charge of some person or persons to prevent their loitering or stopping on such highway at such intersection. 20 V., c. 12, s. 16.

148. All cattle found at large in contravention of the last preceding section may, by any person finding the same at large, be impounded in the nearest pound to the place where the same are so found, and the pound-keeper with whom the same are so impounded shall detain the same in the like manner, and subject to the like regulations as to the care and disposal thereof, as in the case of cattle impounded for trespass on private property. 20 V., c. 12, s. 16.

Such cattle may be impounded.

149. No person, any of whose cattle being at large, contrary to the provisions of the section aforesaid, are killed by any train at such point of intersection, shall have any action against any Railway Company in respect to the same being so killed. 20 V., c. 12, s. 16.

If killed, owner not entitled to any action.

150. At every road and farm crossing on the grade of the Railways in this Province, the crossing shall be sufficiently fenced on both sides of such points, so as to allow the safe passage of the trains. 20 V. c. 12, s. 18.

Crossings to be fenced.

24. BY-LAWS REGULATING TOLLS.

151. The By-laws of every Railroad Company regulating the tolls to be taken on such road, in the Special Act respecting which a provision has been inserted that such Railroad should be subject to the provisions of any general Act relating to Railroads, shall be subject to the approval of the Governor in Council, and no By-law of any Railroad or Railway Company in this Province by which any tolls are to be imposed or altered, or by which any party other than the members, officers and servants of the Company are intended to be bound, shall have any force or effect until the same has been approved and sanctioned by the Governor in Council. 10-11 V., c. 63, s. 14,—12 V., c. 28, s. 2.

By-laws imposing tolls to be approved by the Governor in Council.

25. PENAL CLAUSES.

152. If any person wilfully and maliciously displaces or removes any Railway switch or rail of any Railroad, or breaks down, rips up, injures or destroys any Railroad track or Railroad bridge or fence of any Railroad, or any portion thereof, or places any obstruction whatsoever on any such rail or Railroad track or bridge, with intent thereby to injure any person or property passing over or along such Railroad, or to endanger human life, such person shall be guilty of misdemeanor, and shall be punished by imprisonment with hard labor in the common gaol of the Territorial Division in which such offence is committed or tried, for any period not exceeding one year from conviction thereof; and if in consequence of such act done with the intent aforesaid, any person so passing over and along such Railroad, actually suffers any bodily harm, or if any property passing

Punishment of persons doing any thing to railway with intent to injure persons or property.

And if such damage be actually done.

over and along such Railroad be injured, such suffering or injury shall be an aggravation of the offence, and shall render the offence a felony, and shall subject the offender to punishment by imprisonment in the Penitentiary for two years or in any other prison or place of confinement for any period exceeding one year and less than two years. 16 V., c. 169, s. 1.

And if any person be killed or his life be lost, the offence to be manslaughter.

Punishment.

153. If any person wilfully and maliciously displaces or removes any Railway switch or rail of any Railroad, or breaks down, rips up, injures or destroys any Railroad track or Railroad bridge or fence of any Railroad or any portion thereof, or places any obstruction whatever on any such rail or Railroad track or bridge, or does or causes to be done any act whatever whereby any engine, machine or structure, or any matter or thing appertaining thereto is stopped, obstructed, impaired, weakened, injured or destroyed, with intent thereby to injure any person or property passing over or along such Railroad, and if in consequence thereof any person be killed or his life be lost, such person so offending shall be guilty of manslaughter, and being found guilty, shall be punished by imprisonment in the Penitentiary for any period not more than ten nor less than four years. 16 V., c. 169, s. 2.

Committing any injury, stoppage, &c., to be a misdemeanor.

154. If any person wilfully and maliciously does or causes to be done, any act whatever whereby any building, fence, construction or work of any Railroad, or any engine, machine or structure of any Railroad, or any matter or thing appertaining to the same is stopped, obstructed, impaired, weakened, injured or destroyed, the person so offending shall be guilty of a misdemeanor, and be punished by imprisonment with hard labor not exceeding one year, in the common gaol of the Territorial Division in which the offence was committed or has been tried. 16 V., c. 169, s. 3.

Punishment of persons obstructing inspectors in the execution of their duty.

155. Every person wilfully obstructing any Railway Inspector in the execution of his duty shall, on conviction before a Justice of the Peace having jurisdiction in the place where the offence has been committed, forfeit and pay for every such offence any sum not exceeding forty dollars, and in default of payment of any penalty so adjudged, immediately, or within such time as the said Justice of the Peace appoints, the same Justice, or any other Justice having jurisdiction in the place where the offender resides, may commit the offender to prison for any period not exceeding three months; but such commitment shall be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing Court of Quarter Sessions in the usual manner. 20 V., c. 12, s. 3.

156. Every Railway Company shall, as soon as possible after the receipt of any order or notice of the Board of Railway Commissioners, give cognizance thereof to each of its officers and servants, in one or more of the ways mentioned in the one hundred and sixty-third section of this Act. 20 V., c. 12, s. 15.

Company to notify orders of Board to its officers, &c.

157. All orders of the said Board of Railway Commissioners shall be considered as made known to the said Railway Company by a notice thereof signed by the Chairman and countersigned by the Secretary of the said Board, and delivered to the President, Vice-President, Managing Director, Secretary or Superintendent of the said Company, or at the office of the said Company. 20 V., c. 12, s. 15.

What to be deemed sufficient notice thereof.

158. If any officer or servant of, or person employed by any Railway Company, wilfully or negligently contravenes any By-law or Regulation of the Company lawfully made and in force, or any order or notice of the Board of Railway Commissioners, and of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or his duties, or any of them are to be performed, then if such contravention causes injury to any property or to any person, or exposes any property or any person to the risk of injury, or renders such risk greater than it would have been without such contravention, although no actual injury occurs, such contravention shall be a misdemeanor, and the person convicted thereof shall, in the discretion of the Court before whom the conviction is had, and according as such Court considers the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, be punished by fine or imprisonment, or both, so as no such fine exceeds four hundred dollars, nor any such imprisonment the term of five years; and such imprisonment, if for two years or upwards, shall be in the Provincial Penitentiary. 19-20 V., c. 11, s. 1.

Punishment of officers, &c., contravening by-laws, &c.

159. If such contravention does not cause injury to any property or person, nor expose any person or property to the risk of injury, nor make such risk greater than it would have been without such contravention, then the officer, servant or other person guilty thereof shall thereby incur a penalty not exceeding the amount of thirty days' pay, nor less than fifteen days' pay of the offender from the Company, in the discretion of the Justice of the Peace before whom the conviction is had; and such penalty shall be recoverable with costs before any one Justice of the Peace having jurisdiction where the offence has been committed, or where the offender is found, on the oath of one credible witness other than the informer. 19-20 V., c. 11, s. 1.

Penalty.

Application
of.

160. One moiety of such penalty shall belong to Her Majesty for the public uses of the Province, and the other moiety to the informer, unless he be an officer or servant of, or person in the employ of the Company, in which case he shall be a competent witness and the whole penalty shall belong to Her Majesty for the uses aforesaid. 19-20 V., c. 11, s. 1.

The company
may pay
penalty and
deduct from
wages.

161. The Company may in all cases under this Act pay the amount of the penalty and costs, and recover the same from the offender or deduct it from his salary or pay. 19-20 V., c. 11, s. 1.

Company
may impose
penalties for
contravention
of by-laws.

162. Any Railway Company may by a By-law impose upon any officer, servant, or person who before the contravention of such By-law has had notice thereof and is employed by the Company, a forfeiture to the Company of not less than thirty days' pay of such officer or servant, for any contravention of such By-law, and may retain any such forfeiture out of the salary or wages of the offender. 19-20 V., c. 11, s. 2.

How notice of
by-laws or
orders may be
proved.

163. The notice of the By-law, or of any order or notice of the Board of Railway Commissioners may be proved by proving the delivery of a copy thereof to the officer, servant or person, or that he signed a copy thereof, or that a copy thereof was posted in some place where his work or his duties or some of them were to be performed. 19-20 V., c. 11, s. 2.

When such
proof, &c., to
be a defence
for the com-
pany.

164. Such proof, with a proof of the contravention, shall be a full answer and defence for the Company in any suit for the recovery from it of the amount so retained, and such forfeiture shall be over and above any penalty under the preceding sections number one hundred and fifty-eight to one hundred and sixty-one. 19-20 V., c. 11, s. 2.

26. WORKING OF THE RAILWAY.

Railway not
to be opened
till after one
month's
notice of
intention to
open the
same.

165. No Railway or portion of any Railway shall be opened for the public conveyance of passengers until one month after notice in writing of the intention to open the same has been given by the Company to whom the Railway belongs to the Board of Railway Commissioners, and until ten days after notice in writing has been given by the said Company to the said Board of Railway Commissioners, of the time when the said Railway or portion of Railway will be, in the opinion of the Company, sufficiently completed for the safe conveyance of passengers, and ready for inspection. 20 V., c. 12, s. 4.

Penalty
for contraven-
tion.

166. If any Railway or portion of a Railway be opened without such notices, the Company to whom such Railway

belongs shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the same continues open, until the said notices have been duly given and have expired. 20 V., c. 12, s. 5.

167. If the Railway Inspector or Inspectors, after inspection of any Railway, report in writing to the Board of Railway Commissioners that, in his or their opinion, the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such Railway, together with the ground of such opinion, the Board of Railway Commissioners, with the sanction of the Governor in Council, and so from time to time, as often as such Inspector or Inspectors, after further inspection thereof, so reports, may order and direct the Company to whom the Railway belongs to postpone such opening, not exceeding one month at any one time, until it appears to the said Board that such opening may take place without danger to the public. 20 V., c. 12, s. 6.

Railway Commissioners upon report of inspectors and approval of Governor in Council, may order postponement of opening of road.

168. If any such Railway, or any portion thereof, be opened contrary to such order or direction of the Board of Railway Commissioners, the Company to whom the Railway belongs shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the same continues open contrary to such order or direction. 20 V., c. 12, s. 6.

Penalty for opening contrary to the order of the Commissioners.

169. No such order shall be binding upon any Railway Company unless therewith is delivered to the Company a copy of the report of the Inspector or Inspectors on which the order is founded. 20 V., c. 12, s. 6.

When only such order to be binding on the Company.

170. In all cases where a Railroad passes any draw or swing bridge over a navigable river, canal or stream which is subject to be opened for the purposes of navigation, the trains shall in every case be stopped at least three minutes, to ascertain from the bridge tender that the said bridge is closed and in perfect order for passing, and in default of so stopping during the full period of three minutes the said Railroad Company shall be subject to a fine or penalty of four hundred dollars. 16 V., c. 169, s. 6.

When a railway passes over a swing bridge, &c., train to stop for 3 minutes.

171. Every Railway Company which runs trains upon the railway, for the conveyance of passengers shall provide and cause to be used in and upon such trains such known apparatus and arrangements as best afford good and sufficient means of immediate communication between the conductors and the engine-drivers of such trains while the trains are in motion, and good and sufficient means of applying, by the power of the steam-engine or otherwise at

Company to use the best apparatus for communication between conductors and engine drivers and for stopping or disconnecting cars, fixing seats in cars, &c.

the will of the engine-driver, or other person appointed to such duty, the brakes to the truck-wheels of the locomotive or tender, or both, or of all or any of the cars or carriages composing the trains, and of disconnecting the locomotive, tender, and cars or carriages from each other by any such power or means, and also such apparatus and arrangements as best and most securely place and fix the seats or chairs in the cars or carriages, and shall alter such apparatus and arrangements or supply new apparatus and arrangements from time to time as the Board of Railway Commissioners, with the sanction of the Governor in Council, may order. 20 V., c. 12, s. 10.

Companies to make by-laws for regulation of conductors and other officers, &c.

172. Every Railway Company shall make such by-laws, rules and regulations, to be observed by the conductors, engine-drivers, and other officers and servants of the Company, and by all other Companies and persons using the Railway of such Company, and such regulations with regard to the construction of the carriages and other vehicles to be used in such trains on the Railway of the Company, as are requisite for ensuring the employment and proper use of the aforesaid means of communication, application and disconnection. 20 V., c. 12, s. 10.

Penalty for not complying with the 171st section.

173. Every Railway Company which fails to comply with any of the provisions contained in the one hundred and seventy-first section of this Act, shall forfeit to Her Majesty a sum not exceeding two hundred dollars for every day during which such default continues. 20 V., c. 12, s. 10.

Return of accidents to be made semi-annually.

174. Every Railway Company shall, within ten days after the first days of January and July, in each and every year, make to the Board of Railway Commissioners, under the oath of the President, Secretary or Superintendent of the Company, a true and particular return of all accidents and casualties (whether to life or property) which have occurred on the Railway of the Company during the half year next preceding each of the said periods respectively, setting forth:

1. The causes and natures of such accidents and casualties;
2. The points at which they occurred, and whether by night or by day;
3. The full extent thereof, and all particulars of the same; and
4. Shall also at the same time return a true copy of the existing By-laws of the Company, and of their rules and regulations for the management of the Company and of their Railway. 20 V., c. 12, s. 14.

Form to be appointed by the Board of

175. The Board of Railway Commissioners may order and direct from time to time, the form in which such returns

shall be made up, and may order and direct any Railway Company to make up and deliver to them from time to time in addition to the said periodical returns, returns of serious accidents occurring in the course of the public traffic upon the Railway belonging to such Company, whether attended with personal injury or not, in such form and manner as the Board deem necessary and require for their information with a view to the public safety. 20 V., c. 12, s. 14. Commissioners.

176. If such returns so verified be not delivered within the respective times herein prescribed or within fourteen days after the same have been so required by the Board, every Company making default, shall forfeit to Her Majesty the sum of one hundred dollars, for every day during which the Company neglects to deliver the same. 20 V., c. 12, s. 14. Penalty for neglect.

177. All such returns shall be privileged communications and shall not be evidence in any Court whatsoever. 20 V., c. 12, s. 14. Such returns to be privileged communications.

27. BOARD OF RAILWAY COMMISSIONERS, THEIR DUTIES, ETC.

178. The Receiver General, the Minister of Finance, the Commissioner of Public Works, and the Provincial Postmaster General, shall constitute a Board of Railway Commissioners; and each of the said Officers shall be a Member of the said Board by virtue of his office, and so long, and so long only as he holds the same; such one of the said Officers as the Members of the Board shall agree upon, shall be the Chairman and Official Organ of the Board, the Secretary for the Department of Public Works shall be the Secretary of the said Board; and any report concurred in by a majority of the Board, shall be deemed the report of the Board. 14-15 V., c. 73, s. 17.—22 V., c. 3. (1859.) Board of Commissioners constituted.

179. The Board of Railway Commissioners shall, in addition to their other powers and duties, have and discharge the powers and duties in this Act prescribed, and may from time to time appoint some fit and qualified person to be Secretary of the said Board in the stead of the Secretary for the Department of Public Works. 20 V., c. 12, s. 1,—22 V., c. 3. (1859.) Duties of.
May appoint a secretary.

28. RAILWAY INSPECTORS, THEIR DUTIES, ETC.

180. The Governor in Council may appoint and authorize any proper person or persons, not exceeding three in number, whose duty it shall be from time to time to inspect all railways constructed or in course of construction, and every person so authorized may, at all reasonable times, upon producing his authority if required, enter upon and examine the said railway and the stations, fences or gates, road Railway inspectors.
Duties of.

crossings, cattle guards, works and buildings, and the engines, cars and carriages belonging thereto. 20 V., c. 12, s. 2.

Companies to afford information to the inspectors.

181. Every railway company and the officers and directors thereof shall afford to such inspector or inspectors every information and full and true explanations so far as may be in their power or knowledge, on all matters inquired into by any such inspector or inspectors, and submit to such inspector or inspectors all plans, specifications, drawings and documents relating to the construction or re-construction, repair or state of repair of such railway or any portion thereof, whether a bridge, culvert or other part. 20 V., c. 12, s. 2.

Inspectors may use telegraph wires; for what purposes.

182. Any such Inspector shall have the right to use the telegraph wires and machinery in the offices of or under the control of any such railway company, for the purpose of communicating with any of the officers of the said company, or transmitting any order of any such Inspector relating to such railway. 20 V., c. 12, s. 2.

Operators and others to obey orders of inspectors.

183. The operators or officers employed in the telegraph offices of or under the control of the said Company, shall, without unnecessary delay, obey all orders of any such Inspector for effecting such communications and transmitting messages for the purpose aforesaid, and any such operator or officer refusing or neglecting so to do, shall forfeit for every such offence the sum of forty dollars. 20 V., c. 12, s. 2.

Authority of inspectors, how proved.

184. The authority of any such Inspector shall be sufficiently evidenced by a paper in writing nominating him an Inspector of Railways or of any Railway in particular, signed by the Chairman of the said Board of Railway Commissioners and countersigned by the Secretary thereof. 20 V., c. 12, s. 2.

When any railway bridge condemned by Commissioners and inspectors, what to be done.

185. When any bridge, culvert, viaduct, tunnel, fence, road crossing, or cattle guard, or any other portion of any railway constructed or in course of construction, or any locomotive, car or carriage used or for use on any Railway, has been condemned on the report of an Inspector or Inspectors, by the Board of Railway Commissioners, with the approval of the Governor in Council, or when any change or alteration therein or in any part thereof, or the substitution of any new bridge, culvert, viaduct or tunnel, or of any material for the said Railway, has been required by the Board of Railway Commissioners with the approval of the Governor in Council, the Company to which such Railway belongs, or the Company using, running or controlling the same, shall, after notice thereof in writing signed by the Chairman of the said Board and countersigned by the Secretary thereof, proceed to make good or remedy the defects in the said

portions of the Railway, or in the locomotive, car or carriage, which have been so condemned, or shall make such change, alteration or substitution hereinbefore referred to as has been required in manner aforesaid by the Board. 20 V., c. 12, s. 8.

186. If in the opinion of any such Railway Inspector, it is dangerous for trains or vehicles to pass over any particular Railway, or any portion of a Railway, until alterations, substitutions or repairs have been made thereon, or that any particular car, carriage or locomotive should be run or used, the said Inspector may forthwith forbid the running of any train or vehicle over any such Railway or portion of Railway, or the running or using of any such car, carriage or locomotive, by delivering or causing to be delivered to the President, Managing Director, or Secretary or Superintendent of the Company owning, running, or using such Railway, or to any officer having the management or control of the running of trains on such Railway, a notice in writing to that effect with his reasons therefor, in which he shall distinctly point out the defects or nature of the danger to be apprehended. 20 V., c. 12, s. 9.

When inspectors may forbid the running of trains, &c.

187. The said Inspector shall forthwith report the same to the said Board of Railway Commissioners, who, with the sanction of the Governor in Council, may either confirm, modify or disallow the act or order of the Inspector, and such confirmation, modification or disallowance shall be duly notified to the Railway Company affected thereby. 20 V., c. 12, s. 9.

Commissioners may modify report of inspectors.

188. The said Board of Railway Commissioners may, with the sanction of the Governor in Council, limit the number or times or rate of speed of running of trains or vehicles, upon such Railway or portion of Railway, until such alterations or repairs as they may think sufficient have been made, or until such time as they think prudent; and the Company owning, running or using such railway shall comply forthwith with any such order of the said Inspector or of the said Board, upon notice thereof as aforesaid; and for every act of non-compliance therewith every such Railway Company shall forfeit to Her Majesty the sum of two thousand dollars. 20 V., c. 12, s. 9.

When the Commissioners may regulate speed, &c.

Penalty for non-compliance.

189. Every Railway Company shall, as soon as possible, and at least within forty-eight hours after the occurrence upon the railway belonging to such Company of any accident attended with serious personal injury to any person using the same, or whereby any bridge, culvert, viaduct or tunnel on or of the said Railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof to the Board of Railway Commissioners; and if any Company wilfully omits to give such notice, such Company shall forfeit to Her Majesty the sum of two

Notice of accidents to be given to the Commissioners.

hundred dollars for every day during which the omission to give the same continues. 20 V., c. 12, s. 13.

Inspection not
to relieve
Company
from liability.

190. No inspection had under this Act nor any thing in this Act contained or done or ordered or omitted to be done or ordered under or by virtue of the provisions of this Act, shall relieve or be construed to relieve any Railway Company, of or from any liability or responsibility resting upon it by law either towards Her Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, tutor or curator, heir or other personal representative of any person for any thing done or omitted to be done by such Company, or for any wrongful act, neglect or default, misfeasance, malfeasance or nonfeasance of such Company, or in any manner or way to lessen such liability or responsibility, or in any way to weaken or diminish the liability or responsibility of any such Company under the existing laws of the Province. 20 V., c. 12, s. 17.

29. RAILWAY FUND.

Railway in-
spection fund.

191. From the twenty-seventh of May, one thousand eight hundred and fifty-seven, every Railway then or thereafter constructed shall, so soon as any portion thereof is in use, pay to the Receiver General an annual rate to be fixed by the Governor in Council, not exceeding ten dollars per mile of railway constructed and in use; such rate to be paid half yearly on the first days of January and July in each year, and to form a special fund for the purposes of this Act, to be called "The Railway Inspection Fund." 20 V., c. 12, s. 19.

30. CERTAIN SECTIONS LIMITED.

What the
words "Rail-
way Com-
pany," shall
include.

192. In the construction of the one hundred and fortieth to one hundred and fiftieth, the one hundred and fifty-fifth to one hundred and fifty-seventh, the one hundred and sixty-fifth to one hundred and seventy-seventh and the one hundred and seventy-ninth to one hundred and ninety-first sections of this Act, the expression "Railway Company" shall include any person being the owner or lessee of or contractor working any railway constructed or carried on under the powers of an Act of Parliament. 20 V., c. 12, s. 21.

31. HOW PENALTIES RECOVERED AND APPLIED.

How penalties
recovered and
applied.

193. All penalties incurred under any of the sections of this Act in the last section referred to, except penalties under the one hundred and fifty-fifth section thereof, may be recovered in the name of Her Majesty, by Her Majesty's Attorney General in any Court having competent jurisdiction thereover; and all penalties recovered under the other sections aforesaid, shall be paid to the Receiver General to the credit of "The Railway Inspection Fund." 20 V., c. 12, s. 20.



CHAP. LXVIII.

An Act respecting Joint Stock Companies to construct works to facilitate the transmission of Timber down Rivers and Streams.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

1. Any number of persons not less than five may form themselves into a Company under the provisions of this Act, for the purpose of acquiring or constructing and maintaining any dam, slide, pier, boom, or other work necessary to facilitate the transmission of timber down any river or stream in this Province, and for the purpose of blasting rocks, or dredging or removing shoals or other impediments or otherwise of improving the navigation of such streams for the said purpose. 16 V. c. 191, s. 1,—18 V. c. 84, s. 1.

Companies may be formed for the improvement of rivers and streams.

2. Each share in the Company shall be twenty dollars, and shall be regarded as personal property, and shall be transferable upon the books of the Company, in the manner provided by a By-law to be made by the Directors in that behalf. 16 V. c. 191, s. 8.

Shares to be \$20 each and to be personal property.

3. No such Company shall construct any such works over or upon or otherwise interfere with or injure any private property or the property of the Crown, without first having obtained the consent of the owner or occupier thereof, or of the Crown, except as hereinafter provided. 16 V. c. 191, s. 1.

Not to interfere with public or private property without the consent of the Crown or of the owners.

4. No such Company shall be formed under the provisions of this Act to improve any river or stream, for the improvement of which any other Company has been formed either under this Act or any other Act of the Legislature, or upon which there is constructed any Provincial work, without the consent of such other Company or of the Governor in Council respectively, which consent shall be formally expressed in writing, and shall be registered together with the instrument by which such Company has been incorporated as hereinafter provided. 16 V. c. 191, s. 1.

Not to interfere with other companies or with public works without consent.

Five or more having subscribed stock may execute an instrument.

5. In case five or more persons having formed themselves into a Company under this Act, have subscribed stock to an amount adequate in their judgment to the construction of the intended work, they shall execute an instrument in duplicate according to the form in the Schedule to this Act; and the Company or one of their number, or the Directors named in the said instrument, shall pay to the Treasurer of the Company six per cent. upon the amount of the Capital Stock of the Company mentioned in the said instrument, and shall register the instrument, together with a receipt from the Treasurer of the Company, for the payment or instalment of six per cent., and also the approval in writing of the Commissioner of Public Works mentioned in the tenth section of this Act. 16 V. c. 191, ss. 2, 3.

How registration to be made.

6. Registration shall be made by leaving one of the original instruments and the receipt and approval aforesaid, with the Registrar of any one County in which the intended works are wholly or partly situated, or are intended to be made; and such Registrar shall copy the said instrument, receipt and approval into a book to be provided by him for that purpose, and shall afterwards retain and file the said original documents in his office; and for such registration the Registrar shall be entitled to charge the same fees as for the registration of the Memorial of a Deed. *Ibid.*

Persons paying six per cent. per share in behalf of defaulters may recover the amount.

7. In all cases where a Stockholder has not paid six per cent. on the share or shares held by him, but some other party pays the same on his behalf, the party so paying may recover the amount as a debt, in any competent Court, although not previously authorized to pay the money on behalf of such Stockholder. 16 V. c. 191, s. 2.

Before works commenced a report to be made to the Commissioners of Public Works and to the municipal councils.

8. Every Company before commencing any of the works in its contemplation, shall cause a Report to be laid before the Commissioner of Public Works, and a copy of such Report before the Municipal Council of the County in which such works are proposed to be situated; or if the works are situate in more than one County, then before the Municipal Councils of the Counties, in or on the boundaries of which such works are proposed to be situated; or if such proposed works are in unsurveyed lands not contained within the bounds of any County, then before the Chief Commissioner of Public Works alone. 16 V. c. 191, s. 3.

Contents of report.

9. The report shall contain—

1. A copy of the instrument by which the Company is incorporated;
2. A detailed description of the works to be undertaken, and an estimate of their cost;
3. An estimate from the best available sources of the quantity of different kinds of timber expected to come down the river yearly after the works have been completed; and

4. A Schedule of the tolls proposed to be collected.

10. The Company shall not commence any such works until the approval of the Commissioner of Public Works has been signified in writing, nor until after the expiration of thirty days from the laying the Report or Reports aforesaid before the Municipal Council or Councils (as the case may be), although the approval of the Commissioner of Public Works has been signified in writing before the expiration of that period. 16 V. c. 191, s. 3,—18 V. c. 84, s. 2.

When works may be commenced.

11. When the requirements contained in the preceding sections have been complied with, the Company shall become a Chartered and Incorporated Company, by the name designated in the instrument so to be registered as aforesaid; and by such name they and their successors shall be capable of purchasing, holding and conveying, selling and departing with any lands, tenements and hereditaments whatsoever, which may be useful and necessary for the purposes of the Corporation; and every such work as aforesaid, and all the materials from time to time provided for constructing, maintaining or repairing the same, shall be vested in such Company and their successors. 16 V. c. 191, s. 4.

When the company to become chartered.

12. Every such Company may make By-laws, and from time to time alter and amend the same, for the purpose of regulating the safe and orderly transmission of timber over or through the works of the Company, and the navigation therewith connected.

By-laws may be made and altered.

13. Copies of such By-laws shall be annexed to the reports required to be made by the Company by the eighth and ninth sections of this Act, and copies of all new By-laws and of all amended By-laws shall be annexed to the annual reports required by the twenty-seventh section of this Act.

Copies of the by-laws to accompany the reports.

14. No such By-law or amended By-law shall have any force until one month after it has been included in such report, but, if at the end of one month such By-law has not been disallowed, as it may be by the Commissioner of Public Works, it shall have full force and be binding upon the Company and upon all persons using the works.

When by-laws to come into force.

15. No such By-law shall impose any penalties, or shall contain any thing contrary to the true meaning and intention of this Act. 16 V. c. 191, s. 5.

As to imposing penalties.

16. The affairs, stock, property and concerns of every such Company, shall, for the first year, be managed and conducted by five Directors, to be named in the instrument so to be registered as aforesaid, and thereafter to be annually elected by the Stockholders on the second Monday of

Management of affairs for the first year.

December, according to the provisions of a By-law to be passed by the Directors for that purpose.

By-laws to regulate elections.

17. Such By-law shall regulate—

1. The manner of voting ;
2. The place and hour of meeting for the election of Directors, and of Candidates for the direction ; and
3. Any other matters, except the day of election, which the Directors deem necessary to carry out the provisions of this and the last preceding section.

To be published.

18. Such By-law shall be published for three successive weeks in the newspaper, or one of the newspapers, nearest the place where the Directors of the Company usually meet for the transaction of business.

May be amended.

19. The Directors may alter, change or amend any such By-law, and such amended By-law shall be published in the manner above provided.

A failure to elect directors provided for.

20. If the annual Election of Directors does not take place at the time appointed, the Company shall not thereby be dissolved, but the Directors for the time being, shall in that case continue to serve until another Election of Directors has been held.

When renewed election to be held.

21. Another Election when necessary shall be held within one month after the time appointed by law, and at a time which shall be provided for by By-law to be passed by the Directors of the Company for that purpose. 16 V. c. 191, s. 6.

Who to be electors.

22. At any Election of Directors, each Stockholder shall be entitled to one vote for every share he holds in the Company, and upon which he is not in arrear on any call in respect thereof. 16 V. c. 191, s. 6.

Who qualified to be directors.

23. Any person being a stockholder and not in arrear as aforesaid, shall be eligible as a Director. 16 V. c. 191, s. 6.

Quorum.

24. A majority of the Directors shall be a *quorum* for the transaction of business.

A president to be elected by the directors.

25. The Directors may elect one of their number to be the President, and may nominate and appoint such officers and servants as they deem necessary ; and in their discretion may take security from such officers and servants respectively for the due performance of their duties, and that they will duly account for all moneys coming into their hands to the use of the Company. 16 V. c. 191, s. 13.

Vacancies in directors, how filled.

26. If any vacancy happens amongst the Directors during the current year of their appointment, such vacancy shall

be filled up for the remainder of the year by a person nominated by a majority of the remaining Directors, unless it is otherwise provided by some By-law or Regulation of the Company. 16 V. c. 191, s. 14.

27. The Directors of every Company incorporated under this Act shall annually in the month of January report to the Commissioner of Public Works, which Report shall be under the oath of the Treasurer of the Company, and shall specify:—

Directors to report yearly to the Commissioners of Public Works.

1. The cost of the work;
2. The amount of all money expended;
3. The amount of the Capital Stock, and how much paid in;
4. The whole amount of tolls expended on such work;
5. The amount received during the year from tolls and all other sources, stating each separately, and distinguishing the tolls on different kinds of timber;
6. The amount of Dividends paid;
7. The amount expended for repairs; and
8. The amount of debts due by the Company, specifying the objects for which the debts respectively were incurred.

What the report is to contain.

16 V. c. 191, s. 22.

28. Every Company shall keep regular books of accounts, in which shall be entered a correct statement of the assets, receipts and disbursements of the Company, and such books shall be at all times open to the inspection and examination of any Stockholder or any person for that purpose appointed by the Commissioner of Public Works; and every such Inspector may take copies or extracts from the same, and may require and receive from the keeper of such books, and also from the President and each of the Directors of the Company, and all the other officers and servants thereof, all such information as to such books, and the affairs of the Company generally, as the Inspector deems necessary for the full and satisfactory investigation into and report upon the state of the affairs of the Company, so as to enable such Inspector to ascertain whether the tolls levied upon such work are greater than this Act allows to be levied. 16 V. c. 191, s. 22.

Every company to keep regular books of accounts.

29. If at any time after the formation of any such Company, the Directors are of opinion that it is desirable to alter, improve or extend the said work, or that the original capital subscribed will not be sufficient to complete the work contemplated, the said Directors, under a Resolution to be passed by them for that purpose, may issue debentures, for sums not less than one hundred dollars each, signed by the President and countersigned by the Treasurer of the Company, and not exceeding in the whole one fourth of their paid-up capital, or may borrow upon security of the Com-

Provision for extending the works or capital.

pany, by bond or mortgage of the works and tolls thereon, a sufficient sum to complete the same, or may authorize the subscription of such number of additional shares as may be named in their Resolution, a copy whereof, under the hand of the President and seal of the Company, shall be engrossed at the head of the subscription list to be opened for Subscribers to the additional shares.

New shares to be registered and effect thereof.

30. When such a number of new shares have been subscribed as the Directors deem it desirable to have registered, the President shall deliver such new list of Subscribers to the Registrar having the custody of the Original Instrument, and he shall attach such new list of Subscribers thereto, and such list shall thenceforth be held and taken to be part and parcel of the said Instrument.

Rights and liabilities of new subscribers.

31. All the Subscribers to such list, and those who afterwards enter their names as Subscribers thereon, with the consent of the Directors, signified by a resolution of the Board under the hand of the President and seal of the Company, shall be subject to all the liabilities and entitled to all the rights, benefits, privileges and advantages of original subscribers, as well with respect to the first works undertaken as to any extension or alteration thereof as aforesaid, and such list and the subscriptions thereon shall thenceforth be considered as part and parcel of the original undertaking.

How additional stock to be called in.

32. Such additional shares and stock shall be called in, demanded and recovered, in the same manner and under the same penalties as provided or authorized in respect of the original shares or stock of the Company. 16 V. c. 191, s. 7.

Directors may make calls not exceeding ten per cent. at any one time.

33. The Directors may call in and demand from the Stockholders of the Company respectively, all sums of money by them subscribed, at such time and in such payments or instalments not exceeding ten per cent. at any one time, as the Directors deem proper, upon notice requiring such payment, published for four successive weeks in the newspaper or one of the newspapers nearest the place where the Directors of the Company usually meet for the transaction of business.

If calls not paid, shares forfeited.

34. Any Shareholder neglecting or refusing to pay a rateable share of the calls as aforesaid, for the space of two months after the time appointed for the payment thereof, shall forfeit his shares, which forfeiture shall go to the Company for the benefit thereof.

Forfeiture to be declared and at a general meeting.

35. No advantage shall be taken of the forfeiture, unless the stock is declared to be forfeited at a General Meeting of the Company, assembled at any time after such forfeiture has been incurred.

36. Such a forfeiture shall be an indemnification to the Shareholder so forfeiting against all actions or prosecutions whatever, for any breach of contract or other agreement between such Shareholder and the other Shareholders with regard to carrying on such undertaking. 16 V. c. 191, s. 10.

Such forfeiture to discharge shareholders *inter se*.

37. The Company may, in any Court having jurisdiction in matters of simple contract to the amount demanded, sue for and recover of or from any Stockholder in the Company the amount of any call or calls of stock which such Stockholder has neglected to pay, after public notice thereof for two weeks in the newspaper, or one of the newspapers, published nearest the place where the Directors of the Company usually meet for the transaction of business. 16 V. c. 191, s. 9.

The company may sue for calls after due notice.

38. In any suit by the Company against a Stockholder, brought to recover the money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to aver that the defendant is the holder of one share or more (stating the number of shares) in the stock of the Company, and that he is indebted to the Company in the sum of money to which the calls in arrear amount, in respect of one call or more upon one share or more (stating the number and amount of each of such calls), whereby an action hath accrued to the Company by virtue of this Act. 16 V. c. 191, s. 11.

Form of declaring for calls.

39. On the trial or hearing of any such suit, it shall be sufficient for the Company to prove that the defendant, at the time of making the call, was a holder of one share or more in the undertaking (of which, when there has been no transfer of the shares, proof of subscription to the original agreement to take stock shall be sufficient evidence to the amount subscribed), and to prove that such call was in fact made, and such notice thereof given as is required; whereupon the Company shall be entitled to recover the amount due upon such call, with interest thereon, unless it appears that due notice of such call was not given, and it shall not be necessary for the Company to prove the appointment of the Directors who made the call, or any other matter whatever. 16 V. c. 191, s. 12.

Proof to be given at the trial.

40. The oath of the Treasurer shall be deemed sufficient proof of such notice, and a copy thereof shall be filed in the office of the Clerk of the Court where the trial takes place. 16 V. c. 191, s. 9.

Treasurer's oath to be proof of notice.

41. If upon demand made by the Directors of the Company, the owner or occupier of any land, over, through or upon which the Company desires to construct any such work, or which would be flooded or otherwise interfered

When matters respecting compensation to be submitted to arbitration.

with, or upon which any power given by this Act to the Company is intended to be exercised, neglects or refuses to agree upon the price or amount of damages to be paid for, or for passing through or using such land, or for flooding or otherwise interfering with the same, and for appropriating the same to and for the use of the Company, or for the exercise of any such power as aforesaid, the Company may name one Arbitrator, and the owner or occupier of such land, may name another Arbitrator, and the said two Arbitrators may name a third, to arbitrate and determine upon the amount which the Company shall pay, before taking possession of such land, or exercising such power, and the decision of any two of the said Arbitrators shall be final.

Arbitrators to consider advantages as well as disadvantages.

42. In ascertaining the amount aforesaid, due attention shall be had by the Arbitrators to the benefits which will accrue to the party demanding compensation, by the construction of the intended works.

Upon tender of the sum awarded, the company entitled to a conveyance.

43. The Company may tender the sum awarded to the party claiming compensation, who shall thereupon be bound to execute a conveyance of the land to the Company, or such other document as may be requisite, and the Company after such tender, whether a conveyance or other document be executed or not, may enter upon and take possession of the land, to and for the uses of the Company, and may hold the same, or exercise such power as aforesaid, in the same manner as if a conveyance thereof or other document had been executed. 16 V. c. 191, s. 15.

When the judge, &c., to name an arbitrator.

44. If any such owner or occupier neglects to name an Arbitrator for the space of twenty days after having been notified so to do by the Company, or if the said two Arbitrators do not within the space of twenty days after the appointment of such second Arbitrator, agree upon a third Arbitrator, or if any one of the said Arbitrators refuses or neglects, within the space of ten days after his appointment, to take upon himself the duties thereby imposed, then, upon the application of the Company, or of the other party, the Judge of the County Court of the County in Upper Canada, or of the Circuit Court of the Circuit in Lower Canada, within which the land lies, shall nominate a disinterested competent person, from any Township or Parish adjoining the Township or Parish in which such land is situate, to act in the place of the Arbitrator so refusing or neglecting; and every Arbitrator so appointed by the Judge of the County Court or Circuit Court, as the case may be, shall hear and determine the matter to be submitted to him with all convenient speed, after he has been so nominated, as aforesaid; and any award made by a majority of the Arbitrators shall be as binding as if the three Arbitrators had concurred in and made the same. 16 V. c. 191, s. 15. See 18 V. c. 84, s. 7.

45. In case any lands required by the Company for the purpose of any such work, or with regard to which any such power is to be exercised as aforesaid, are held or owned by any person, body politic, corporate or collegiate, whose residence is not within this Province or is unknown to the Company, or in case the title to any such lands is in dispute, or in case such lands are mortgaged, or in case the owner or owners of such lands are unknown, or unable to treat with the Company for the sale thereof, or the exercise of any such power as aforesaid by the Company, or to appoint Arbitrators as aforesaid, the Company may nominate and appoint one indifferent person and the Judge of the County Court or of the Circuit Court where such lands are situate, on the application of the Company, may nominate and appoint one other disinterested competent person from any Township or Parish adjoining the Township or Parish in which such lands are situate, who, together with one other person to be chosen by the persons so named before proceeding to business, or, in the event of their disagreeing as to the choice, with one other person to be appointed by such Judge as aforesaid before the others proceed to business, shall be Arbitrators to award, determine, adjudge and order the respective sums of money which the Company shall pay to the party entitled to receive the same, for the said lands or damages as aforesaid, and the decision of a majority of such Arbitrators shall be binding. 16 V. c. 191, s. 16,—18 V. c. 84, s. 7.

How company to proceed in the case of lands of absentees.

46. When demanded the Company shall pay or cause to be paid to the several parties entitled to the same, the amount so awarded.

Amount of award to be paid on demand.

47. A record of the award shall be made up and signed by the Arbitrators, or a majority of them, specifying the amount awarded and the costs of arbitration, which may be settled by the said Arbitrators, or a majority of them; and such record shall be deposited in the Registry Office of the County in or along which such lands are situate, and the Company may thereupon enter and take possession of such land to and for the uses of the Company, and may proceed with the construction of the works affecting the same.

A record of the award to be drawn up and registered.

48. The expenses of any Arbitration under this Act shall be paid by the Company and by them deducted from the amount of the award on payment thereof to the parties entitled to receive the same, if the Company, before the appointment of their Arbitrator, had tendered an equal or greater sum than that awarded by the Arbitrators, otherwise such expenses shall be borne by the Company, and the Arbitrators shall specify in their award by which of the parties the said costs shall be paid. 16 V. c. 191, s. 16.

Costs of reference to be paid by the company, &c.

When lands taken to become the property of the company.

49. All lands taken by the Company for the purpose of any such work, and which have been purchased and paid for by the Company in the manner hereinbefore provided, shall become the property of the Company, free from all mortgages, incumbrances and other charges. 16 V. c. 191, s. 16.

50. * * * * *

How arbitrators to proceed.

51. The arbitrators so appointed shall fix a convenient day for hearing the respective parties, and shall give eight days' notice at least of the day and place; and having heard the parties or otherwise examined into the merits of the matter so brought before them, the said Arbitrators, or a majority of them, shall, within thirty days' of their appointment, make their award or arbitrament thereupon in writing, which award or arbitrament shall be final as to the amount in dispute. 16 V. c. 191, s. 18.

If timber slides, &c., erected by others be assumed by the company, how compensation to be made.

52. In case there be already established by any party other than a Company formed under this Act or some other Act of this Province, any slide, pier, boom or other work intended to facilitate the passage of timber down any water for the improvement of which a Company is formed under this Act, such Company may take possession of the works, and the owners thereof, or (if they have been constructed on the property of the Crown), the persons at whose cost they have been constructed, may claim a compensation for the value of such works, either in money or in stock of such Company, at the option of such owner or the person at whose cost the same was constructed, and may become Stockholders in the said Company for an amount equal to the value of such works, such value to be ascertained by Arbitrators appointed in the manner hereinbefore provided; and all the provisions of the forty-fifth to the forty-ninth sections of this Act shall apply to such work and the proprietors or possessors thereof in the same manner and to the same extent as to lands required by such Company and to the proprietors and occupiers thereof. 18 V. c. 84, s. 3,—and 16 V. c. 191, ss. 19, 1,

When the 8th and 9th sections need not be complied with.

53. And in case any such Company purchases or takes possession of such works, as aforesaid, and does not make or construct any other works than those so acquired, it shall not be requisite for the Company to observe the formalities required by the eighth and ninth sections of this Act, excepting only that such Company shall furnish the Commissioner of Public Works with the report and copy of report in the said sections mentioned. 18 V. c. 84, s. 6.

Mill sites, &c., not to be taken without the consent of the owner.

54. Nothing herein contained shall authorize any Company formed under this Act to take possession of, or in any wise injure any mill site, upon which there is existing any mills or machinery, or any hydraulic works other than

those intended to facilitate the passage of timber ; and no Company formed under this Act shall commence any work which interferes with or endangers any such occupied mill site, without the assent in writing of the proprietor thereof previously obtained, or an award of Arbitrators appointed as herein provided, to the effect that the proposed works will not injure such mill site, which assent or award shall be registered in the same manner as the instrument of incorporation of such Company. 16 V. c. 191, s. 19.

55. The provisions of the seventeenth and eighteenth sections of the forty-eighth chapter of the Consolidated Statutes of Upper Canada, respecting mills and mill dams, shall extend to similar land in Upper Canada overflowed by any of the works constructed by any Company formed under this Act. 16 V. c. 191, s. 20.

The 17th and 18th sections of the U. C. Consolidated Act, cap. 48, to apply, &c.

56. Nothing herein contained shall authorize any Company formed under this Act to obstruct any waters already navigable, or to collect any tolls other than those upon timber.

Navigable waters not to be obstructed. Tolls on timber only.

57. If by reason of any dam erected by a Company formed under this Act, any fall or water power be created, the Company shall in no wise have any title or claim to the use of such water power ; nevertheless, if the owner or occupier of the land adjoining has made a claim for compensation for damages arising from such dam, the Arbitrators may take into account the increased value of his property by reason of the water power so created. 16 V. c. 191, s. 21.

Rights of parties as to water powers created by the company.

58. The tolls for the first year shall be calculated upon the estimates hereinbefore required to be made of the cost of the works, and the quantity of different kinds of timber expected to pass down the stream, and the tolls in all future years shall be calculated upon the cost of the works and the quantity of different kinds of timber expected to pass down the stream, and the receipts and expenditure, according to the accounts of the then next preceding year, as rendered in accordance with the provisions of the twenty-seventh and following sections of this Act ; and the tolls shall be so calculated that, after defraying the necessary cost of maintaining and superintending the works and collecting the tolls, the balance of the receipts may as nearly as possible be equal, and in no case exceed ten dollars for every hundred expended and invested in the said works ; and if in any year the receipts from tolls are such that, after defraying all the current expenses, there remains a clear profit of more than ten dollars upon every hundred of the capital expended, there shall nevertheless be divided amongst the Shareholders no greater dividend than after

Principle on which tolls to be calculated.

the rate of ten dollars for every hundred, and the remainder shall be carried over to the receipts of the following year. 16 V. c. 191, s. 23.

59.

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The annual account to be rendered by the company to contain a schedule of tolls.

60. The annual account required to be rendered by every Company shall contain a Schedule of the tolls, calculated as aforesaid, which it is proposed to collect in the following year, and if it has not been notified to the President of the Company on or before the fifteenth day of March in each year, that the Schedule of tolls has been disallowed by an order of the Commissioner of Public Works, the President of the Company shall cause the said Schedule of tolls to be published for the space of one month in some newspaper published within the County or Counties, District or Districts, in which or nearest to which such works are situate, and such tolls so published shall be the lawful tolls for that year; but if it appears to the Commissioner of Public Works that the proposed Schedule of tolls has not been calculated according to the true intent and meaning of this Act, such Commissioner may, by an Instrument under his hand, alter or vary the said Schedule of tolls so as to make them correspond with the true meaning of this Act; and such amended Schedule of tolls shall be notified to the President of the Company, and shall by him be published as aforesaid, and shall be the lawful tolls for that year. 16 V. c. 191, s. 25.

Company may demand of owner statement of quantity of timber liable to tolls.

61. Every such Company may demand from the owner of any timber intended to be passed through any portion of the works of the Company, or from the person in charge of the same, a written statement of the quantity of each kind of timber and of the destination of the same, and of the sections of the works through which it is intended to pass, and if no such written statement is given when required or a false statement is given, the whole of such timber or such part of it as has been omitted by a false statement shall be liable to double toll.

At the peril of double toll.

On what timber toll may be taken.

62. Every such Company may demand and receive the lawful toll upon all timber which has come through or over any of the works of the Company; and the Company, by its servants, shall have free access to all such timber for the purpose of measuring or counting the same.

Right of company to examine.

May sue for tolls.

63. If the just tolls be not paid on demand, the Company may sue for the same in any Court of competent jurisdiction, and recover from the owner of the timber the amount of the tolls and the costs of suit.

If full toll tendered, company liable to costs.

64. If the owner of the timber objects to the amount of tolls demanded, and tenders a sum which he claims to be the

true and just amount of the tolls. the Company shall pay the costs of the suit, unless the judgment obtained is for a greater amount than the sum so tendered. 16 V. c. 191, s. 26.

65. If timber has not come through or over the whole of the works of the Company, but only through or over a part thereof, the owner of the timber shall only be liable to pay tolls for such sections of the whole works as he has made use of, if in the Schedule of tolls the work is divided into sections, and if not, then to pay such a portion of whole toll as the distance such timber has come through the works, bears to the whole distance, over which such works extend. 16 V. c. 191, s. 26.

Toll to be apportioned to the extent of the works used.

66. If the true owner of any timber which has passed through any of the works of the Company cannot be ascertained, or if there be reasonable grounds to apprehend that the tolls thereon have not been paid by the owner or reputed owner or person in charge, any Mayor, Reeve, or Justice of the Peace, having jurisdiction within the locality, through or adjoining which such navigation extends, or where the timber may be found, if within twenty miles of any such works, shall, upon the oath of any Director or servant of the Company that the just tolls have not been paid, issue a warrant for the seizure of such timber, or so much thereof as will be sufficient to satisfy the tolls, which warrant shall be directed to any Constable or any person sworn in as a Special Constable for that purpose, at the discretion of the Magistrate, and shall authorize the person to whom it is directed, if the tolls are not paid within fourteen days from the date thereof, to sell the said timber, and out of the proceeds to pay to the Company the just tolls, together with the costs of the warrant and sale, rendering the surplus on demand to the owner. 16 V. c. 191, s. 27.

When and how timber may be seized for tolls.

67. * * * * *

68. If any person resists or impedes any of the servants of any such Company, in the transmission of any timber through any such works, or in carrying out any regulations of the Company for the greater safety and regularity of such transmission, or resists any such servants who may require access to any raft or other timber to ascertain the just tolls thereon, or in any way molests such Company or its servants in the exercise of any rights secured to them by this Act, such person shall, upon conviction thereof in a summary way before a Justice of the Peace having jurisdiction in the locality in or adjoining which the offence has been committed, be sentenced to pay a fine of not more than ten dollars nor less than one dollar, together with all costs, to be paid within a time to be limited by the said Justice, and in default to be levied as next hereinafter provided. 16 V. c. 191, s. 29.

Use of impeding the operation of the company.

How justice of the peace to proceed in prosecutions under this Act.

69. In any proceeding or prosecution before any Justice of the Peace under this Act, the Justice may summon the party complained against to appear at a time and place to be named in the summons, and if he does not appear accordingly, then upon proof of the due service of the summons upon such party either personally or by leaving a copy thereof at his usual place of abode, or with any adult person belonging to the raft to which such party is attached, the Justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending and bringing such party before himself or some other Justice of the Peace; or the Justice may, without previous summons, issue such warrant, and the Justice before whom the parties appear or are brought shall proceed to hear and determine the case. 16 V. c. 191, s. 30.

How fines, &c., recoverable.

70. The fines and forfeitures authorized to be summarily imposed by this Act may be recovered upon information and complaint before any Justice of the Peace of the County within which the same have been incurred, and shall be levied and collected by distress and sale of the offender's goods and chattels under the authority of a Warrant of Distress for that purpose, to be issued by the Justice before whom the conviction has been had.

If no goods, offender to be imprisoned.

71. In case there are no goods or chattels to satisfy such Warrant, the offender shall be committed to the common gaol of the District or County for any period not exceeding one month; but this section shall not prevent the issuing of a Warrant of Commitment in the first instance, upon a conviction for any offence mentioned in the sixty-seventh section of this Act. 16 V. c. 191, s. 31.

Fines, &c., to be paid to the treasurer of the company.

72. All fines and forfeitures collected under the authority of this Act shall be paid to the Treasurer of the Company owning the work in respect of which such fines and forfeitures have been imposed, for the use of such Companies respectively. 16 V. c. 191, s. 32.

Officers and servants to be competent witnesses.

73. In any action or suit brought by or against any such Company, upon any contract or for any matter or thing whatsoever, any Stockholder, or any officer or servant of the Company, shall be competent as a witness, and his testimony shall not be deemed inadmissible on the ground of interest, or of his being such servant or officer. 16 V. c. 191, s. 33.

Limitation of actions.

74. If any suit be brought against any person for any matter or thing done in pursuance of this Act, such suit shall be brought within six months next after the fact committed, and not afterwards, and the defendant therein may plead the general issue only, and give this Act and the special matter in evidence on the trial. 16 V. c. 191, s. 34.

75. Every such Company shall within two years from the day of their becoming incorporated, complete each and every work undertaken by them, and for the completion whereof they may be incorporated, in default whereof they shall forfeit all the corporate and other powers and authority which they have in the meantime acquired, and all their corporate powers shall thenceforth cease and determine, unless further time be granted by a By-law of the County or Counties, District or Districts in or adjoining which the work is situate; and if any Company formed under this Act, for the space of one year, abandons any works completed by them so that the same are not in sufficient repair and cannot be used for the purpose proposed in their Instrument of Incorporation, then their corporate powers shall cease and determine. 16 V. c. 191, s. 35.

Within what time works to be completed, &c.

76. After any works constructed by a Company under this Act have been completed and tolls established, the Company shall keep the same in good and sufficient repair; and if any such works have not been constructed according to the description given thereof in the report required by the ninth section of this Act, or have become insufficient or out of repair, any person interested in the navigation may serve upon any servant of the Company a notice of such insufficiency; and if within a reasonable time after the service of such notice the necessary repairs have not been completed, such Company shall be liable for the damage which any person may sustain from the continuance of such insufficiency; but no Company formed under this Act shall be held liable for any damage, so long as their works are in accordance with the description or specification thereof in the original Instrument required to be registered, or in any description or specification subsequently approved of and registered, nor for any damage arising from the accidental destruction or injury of their works, but only for the damage which may arise from the wilful neglect of the Company after notice served upon one of its servants as hereinbefore provided. 16 V. c. 191, s. 36.

Works to be kept in good repair.

77. Any two Companies formed for the construction of works on any streams contiguous to each other, may unite and form one Consolidated Company, on such terms as to them seem meet; and the name of such united Companies to be then assumed shall thenceforth be the corporate name thereof, and such united Companies may then exercise and enjoy all the rights, and shall be subject to all the liabilities of other Companies formed under the provisions of this Act, and which the separate Companies had and enjoyed or were subject or liable to before the union thereof. 16 V. c. 191, s. 37.

When companies may be united.

78. Notwithstanding the privileges conferred by this Act, the Legislature may at any time, in their discretion,

The Legislature may alter this Act at discretion.

make such additions to this Act, or such alterations of any of its provisions as they may think proper for affording just protection to the public, or to any person or body corporate or politic, in respect to their estate, property, right or interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right of way that may be affected by any of the powers given to any such Corporation.

When the Governor in Council may declare a company dissolved.

79. Whenever it is found expedient for the public service, the Governor in Council may declare any Company formed under this Act dissolved, and may declare all the Works of any such Company, Provincial Works, upon payment to such Company of the then actual value of the works, to be decided by Arbitrators, one of whom shall be appointed by the Commissioner of Public Works, and one by the Company; and if they do not agree to an award, the Judge of the County Court for the County in Upper Canada, or the Judge of the Circuit Court in Lower Canada, in or adjoining which the works are situate, shall be the third Arbitrator. 16 V. c. 191, s. 38.

Arbitration in such case.

How company to proceed in L. C. when title to lands taken is doubtful.

80. In every case where any lands or works in Lower Canada have been acquired or purchased, or taken possession of under the provisions of this Act, and when the Company purchasing or taking possession of such lands or works, have cause to believe that the occupier or person in possession of such lands or works is not the legal owner thereof, or that such lands or works are already mortgaged or hypothecated, the Company shall not be bound to pay the amount of the purchase money or of the award provided for by this Act to the occupier thereof, but may deposit in the hands of the Prothonotary of the District in which such lands or works are situate, the purchase money of such land or works, or the amount awarded therefor, together with their deed of purchase or award, as the case may be, and may proceed to obtain a ratification by the Superior Court sitting in such District, of such deed of purchase or award, in the manner practised for the ratification of title deeds.

Real owner may intervene.

81. The real proprietor of such land or works, and all others having claims in or upon the same may intervene in such proceeding and claim and obtain the purchase money or amount awarded for such lands or works, or their due share thereof, and the Court may grant such ratification, and upon the ratification the Company shall become and be the legal and indefeasible proprietor of the land or works, free and clear of all claims, charges and incumbrances whatsoever, and the money so deposited shall stand in lieu of such land or work; and in case of substitution or where minors or interdicted parties are interested, the Court may make such order as seems meet for the protection of the parties entitled to the same. 18 V. c. 84, s. 4.

SCHEDULE.—*See Sec. 5.*

Be it remembered, that on this _____ day of _____, in the year of our Lord one thousand eight hundred and _____, we, the undersigned Stockholders, met at _____, in the _____ County of _____, in the Province of Canada, and resolved to form ourselves into a Company to be called *(here insert the corporate name intended to be taken by the Company)*, according to the provisions of the Consolidated Statute of Canada, intituled, *An Act, &c. (insert the title of this Act)*, for the purpose of constructing a slide, wharf, pier *(or other such work as aforesaid, describing the nature, extent and situation thereof)*, and we do hereby declare that the capital stock of the said Company shall be _____ dollars, to be divided into _____ shares, at the price or sum of twenty dollars each; and we, the undersigned stockholders, do hereby agree to take and accept the number of shares set by us opposite to our respective signatures, and we do hereby agree to pay the calls thereon, according to the provisions of the said in part recited Act and of the Rules and Regulations, Resolutions and By-laws of the said Company, to be made or passed in that behalf; and we do hereby nominate *(the names to be here inserted)* to be the first Directors of the said Company.

Names.	Number of Shares.	Amount.

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CHAP. LXIX.

An Act respecting payment of dividends by Insurance Companies.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Liability of managers, &c., paying dividends which impair the capital stock of the company.

1. If the Managers, Directors or Trustees of any Fire, Life, Marine or other Assurance Company, incorporated by the Legislature of Canada, or of Upper Canada or of Lower Canada, knowingly and wilfully declare and pay any dividend or bonus out of the paid up capital of the Company, or when the Company is insolvent, or which would render it insolvent, or which would diminish the amount of its Capital Stock, such Managers, Directors or Trustees who are present when such dividend or bonus is declared and which said dividend is afterwards paid, shall be jointly and severally liable for all the debts of the Company then existing, and for all thereafter contracted while such Managers, Directors or Trustees, respectively, continue in office; But if any of them object to the declaration of such dividend or bonus, or to the payment of the same, and at any time before the time fixed for the payment thereof, file a written statement of such objection in the Office of the Company, and also in the Registry Office of the City, Town or County where the Company is situated, such Managers, Directors or Trustees shall be exempt from such liability. 19, 20 V. c. 89.

How such managers may free themselves from liability.

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CHAP. LXXIX.

An Act respecting the Appointment of Commissioners for taking Affidavits and the Attendance of Witnesses in the Courts of Upper and Lower Canada reciprocally.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

* * * * *

COURTS TO ISSUE SUBPCENAS INTO ANY PART OF CANADA.

4. If in any action or suit depending in any of Her Majesty's Superior Courts of Law or Equity in Canada, it appears to the Court, or when not sitting, it appears to any Judge of the Court, that it is proper to compel the personal attendance at any trial or *enquête* or examination of witnesses, of any person who may not be within the jurisdiction of the Court in which the action or suit is pending, the Court or Judge, in their or his discretion, may order that a writ called a writ of *subpoena ad testificandum* or of *subpoena duces tecum* shall issue in special form, commanding such person to attend as a witness at such trial or *enquête* or examination of witnesses wherever he may be in Canada. 18 V. c. 9, s. 1.

Courts may issue subpoenas to any part of Canada.

5. The service of any such writ or process in any part of Canada shall be as valid and effectual to all intents and purposes, as if the same had been served within the jurisdiction of the Court from which it has issued, according to the practice of such Court. 18 V. c. 9, s. 1.

Service thereof in any part of Canada to be good.

6. No such writ shall be issued in any case in which an action is pending for the same cause of action, in that section of the Province, whether Upper or Lower Canada respectively, within which such witness or witnesses may reside. 18 V. c. 9, s. 1.

When not to be issued.

7. Every such writ shall have at the foot, or in the margin thereof, a statement or notice that the same is issued by the special order of the Court or Judge making such order, and no such writ shall issue without such special order. 18 V. c. 9, s. 2.

Writs to be specially noted.

Consequences
of disobedience.

8. In case any person so served does not appear according to the exigency of such writ or process, the Court out of which the same issued, may, upon proof made of the service thereof and of such default, to the satisfaction of such Court, transmit a certificate of such default, under the Seal of the same Court, to any of Her Majesty's Superior Courts of Law or Equity in the part of Canada in which the person so served may reside, being out of the jurisdiction of the Court transmitting such certificate, and the Court to which such certificate is sent shall thereupon proceed against and punish such person so having made default, in like manner as they might have done if such person had neglected or refused to appear to a writ of subpœna or other similar process issued out of such last mentioned Court. 18 V. c. 9, s. 3.

If expenses
paid or tendered.

9. No such certificate of default shall be transmitted by any Court, nor shall any person be punished for neglect or refusal to attend any trial or *enquête* or examination of witnesses, in obedience to any such subpœna or other similar process, unless it be made to appear to the Court transmitting and also to the Court receiving such certificate, that a reasonable and sufficient sum of money, according to the rate *per diem* and per mile allowed to witnesses by the law and practice of the Superior Courts of Law within the jurisdiction of which such person was found, to defray the expenses of coming and attending to give evidence and of returning from giving evidence, had been tendered to such person at the time when the writ of subpœna, or other similar process, was served upon him. 18 V. c. 9, s. 3.

How service
proved.

10. The service of such writs of subpœna or other similar process in Lower Canada, shall be proved by the certificate of a Bailiff within the jurisdiction where the service has been made, under his oath of office, and such service in Upper Canada by the affidavit of service endorsed on or annexed to such writ by the person who served the same. 18 V. c. 9, s. 3.

Costs of attendance
provided for.

11. The costs of the attendance of any such witness shall not be taxed against the adverse party to such suit, beyond the amount that would have been allowed on a commission *rogatoire*, or to examine witnesses, unless the Court or Judge before whom such trial or *enquête* or examination of witnesses is had, so orders. 18 V. c. 9, s. 4.

This Act extended to the
Circuit Courts in L. C. reciprocally.

12. This Act shall apply to the summoning of witnesses residing within the jurisdiction of the Circuit Court held at any one place, to attend at any trial or *enquête* before the Circuit Court at any other place in Lower Canada. 18 V. c. 9, s. 5.

1st. Nothing herein contained shall affect the power of any Court to issue a commission for the examination of witnesses out of its jurisdiction, nor affect the admissibility of any evidence at any trial or proceeding, where such evidence is now by law receivable, on the ground of any witness being beyond the jurisdiction of the Court. 18 V. c. 9, ss. 6, 7.

Power to issue
commissions
to examine
witnesses
preserved.

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THE CONSOLIDATED STATUTES

FOR

UPPER CANADA.

1859.

CHAP. I.

An Act respecting the Consolidated Statutes for Upper Canada.

(Assented to 4th May, 1859.)

Preamble.

WHEREAS it has been found expedient to revise, classify and consolidate the Public General Statutes which apply exclusively to Upper Canada, including both those passed by the Legislature of the late Province of Upper Canada, and those passed by the Parliament of Canada;— And whereas such revision, classification and consolidation have been made accordingly; And whereas it is expedient to provide for the incorporation therewith of the Public General Statutes passed during the present Session in so far as the same affect Upper Canada exclusively, and for giving the force of law to the body of Consolidated Statutes to result from such incorporation: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Original Roll of Statutes revised, &c., to be certified and deposited.

1. The printed Roll attested as that of the said Statutes so revised, classified and consolidated as aforesaid, under the signature of His Excellency the Governor General, that of the Clerk of the Legislative Council, and that of the Clerk of the Legislative Assembly, and deposited in the office of the Clerk of the Legislative Council, shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as to be repealed in the Schedule A thereto annexed; but the marginal notes thereon, and the references to former enactments at the foot of the several sections thereof form no part of the said Statutes, and shall be held to have been inserted for convenience of reference

As to marginal notes, misprints, &c.

only, and may be omitted or corrected,—and any misprint or clerical error in the said Roll may also be corrected,—in the Roll hereinafter mentioned.

2. The Governor may select such Acts and parts of Acts passed during the present Session, as he may deem it advisable to incorporate with the said Statutes contained in the said first mentioned Roll, and may cause them to be so incorporated therewith, adapting their form and language to those of the said Statutes (but without changing their effect), inserting them in their proper places in the said Statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections, if need be, and adding to the said Schedule A a list of the Acts and parts of Acts of the present Session so incorporated as aforesaid; and the Governor may direct that all sums of money stated in the said Roll in Halifax currency be converted into dollars and cents in all cases where it can be conveniently done.

Governor may cause the legislation of this Session to be incorporated with the Statutes in the said Roll.

3. So soon as the said incorporation of such Acts and parts of Acts with the said Statutes, and the said addition to the said Schedule A shall have been completed, the Governor may cause a correct printed Roll thereof attested under his signature and countersigned by the Provincial Secretary, to be deposited in the office of the Clerk of the Legislative Council, which Roll shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as repealed in the amended Schedule A thereto annexed; any marginal notes however, and references to former enactments which may appear thereon being held to form no part of the said Statutes but to be inserted for convenience of reference only.

Certified Roll including the legislation of the present Session to be deposited and serve as the original thereof.

4. The Governor in Council, after such deposit of the said last mentioned Roll, may, by Proclamation, declare the day on, from and after which the same shall come into force and have effect as law by the designation of "The Consolidated Statutes for Upper Canada."

Proclamation for bringing the Consolidated Statutes into force on a certain day.

5. On, from and after such day, the same shall accordingly come into force and effect as and by the designation of "The Consolidated Statutes for Upper Canada." to all intents as though the same were expressly embodied in and enacted by this Act, to come into force and have effect on, from and after such day; and on, from and after the same day, all the enactments in the several Acts and parts of Acts in such amended Schedule A mentioned as repealed, shall stand and be repealed, save only as hereinafter is provided.

On and after that day, they shall be in force—and the enactments embodied in them repealed.

Exception.

6. The repeal of the said Acts and parts of Acts shall not revive any Act or provision of law repealed by them; nor

Saving as to transactions, &c., anterior to the repeal.

shall the said repeal prevent the effect of any saving clause in the said Acts and parts of Acts,—or the application of any of the said Acts or parts of Acts or of any Act or provision of laws formerly in force,—to any transaction, matter or thing anterior to the said repeal, to which they would otherwise apply.

Certain matters anterior to the repeal not to be affected by it,—

Penalties, &c.

Indictments, &c.

Actions, &c.

Acts, deeds, rights, &c.

Offices, &c.

Marriages, &c.

Any other matters, &c.

But the same to remain valid, &c.

And may be enforced, &c., and under what laws.

7. The repeal of the said Acts and parts of Acts shall not affect—

1. Any penalty, forfeiture or liability, civil or criminal, incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal,—

2. Nor any indictment, information, conviction, sentence or prosecution, had, done, completed or pending at the time of such repeal,—

3. Nor any action, suit, judgment, decree, certificate, execution, process, order, rule or any proceeding, matter or thing whatever respecting the same, had, done, made, entered, granted, completed, pending, existing, or in force at the time of such repeal,—

4. Nor any act, deed, right, title, interest, grant, assurance, descent, will, registry, contract, lien, charge, matter or thing, had, done, made, acquired, established or existing at the time of such repeal,—

5. Nor any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto, at the time of such repeal,—

6. Nor any marriage, certificate or registry thereof, lawfully had, made, granted or existing before or at the time of such repeal,—

7. Nor shall such repeal, defeat, disturb, invalidate or prejudicially affect any other matter or thing whatsoever, had, done, completed, existing or pending at the time of such repeal,—

8. But every

Such penalty, forfeiture and liability, and every such Indictment, information, conviction, sentence and prosecution, and every such

Action, suit, judgment, decree, certificate, execution, process, order, rule, proceeding, matter or thing, and every such

Act, deed, right, title, interest, grant, assurance, descent, will, registry, contract, lien, charge, matter or thing, and every such

Office, appointment, commission, salary, allowance, security and duty, and every such

Marriage, certificate and registry, and every such other matter and thing, and the force and effect thereof, respectively,

May and shall, both at law and in equity, remain and continue as if no such repeal had taken place, and, so far as

necessary, may and shall be continued, prosecuted, enforced and proceeded with under the said Consolidated Statutes and other the Statutes and Laws having force in Upper Canada, so far as applicable thereto, and subject to the provisions of the said several Statutes and Laws.

8. The said Consolidated Statutes shall not be held to operate as new laws, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the said Acts and parts of Acts so repealed, and for which the said Consolidated Statutes are substituted.

Consolidated Statutes not to be deemed new laws.

9. But if upon any point the provisions of the said Consolidated Statutes are not in effect the same as those of the repealed Acts and parts of Acts for which they are substituted, then as respects all transactions, matters and things subsequent to the time when the said Consolidated Statutes take effect, the provisions contained in them shall prevail, but as respects all transactions, matters and things anterior to the said time, the provisions of the said repealed Acts and parts of Acts shall prevail.

How construed if in any case they differ from the repealed Acts, &c.

10. Any reference in any former Act remaining in force, or in any instrument or document, to any Act or enactment so repealed, shall, after the Consolidated Statutes take effect, be held, as regards any subsequent transaction, matter or thing, to be a reference to the enactments in the Consolidated Statutes having the same effect as such repealed Act or enactment.

As to references to repealed Acts, in former Acts, &c.

11. The insertion of any Act in the said Schedule A shall not be construed as a declaration that such Act or any part of it was or was not in force immediately before the coming into force of the said Consolidated Statutes.

As to effect of insertion of an Act in Schedule A.

12. Copies of the said Consolidated Statutes printed by the Queen's Printer from the amended Roll so deposited, shall be received as evidence of the said Consolidated Statutes in all Courts and places whatsoever.

Copies by Queen's Printer to be evidence.

13. It shall not be necessary that the said Consolidated Statutes for Upper Canada be translated into French: but the Governor may, in his discretion, cause a translation to be made and printed at any time hereafter.

As to translation into French.

14. The laws relating to the distribution of the printed copies of the Statutes shall not apply to the said Consolidated Statutes, but the same shall be distributed in such numbers and to such persons only, as the Governor in Council may direct.

As to distribution of copies.

This Act to
form part of
Consolidated
Statutes.

How they may
be cited.

15. This Act shall be printed with and shall form the first Chapter of the said Consolidated Statutes, and shall be subject to the rules of construction prescribed in the second Chapter thereof;—And any Chapter of the said Statutes may be cited and referred to in any Act and proceeding whatever, Civil and Criminal, either by its title as an Act, —or by its number as a Chapter in the copies printed by the Queen's Printer,—or by its short title. •

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most
Excellent Majesty.



CHAP. II.

An Act respecting the Interpretation of certain words and terms therein mentioned.

TO prevent the unnecessary multiplication of words and to give definite meanings to certain words and expressions which may be provided for by a General Law: Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. The foregoing Act, this Act and the following series of Acts shall apply to Upper Canada only and shall constitute the Consolidated Statutes of Upper Canada exclusively: and in pleading, citing or otherwise referring to them, or any of them, it shall be sufficient to use the expression "The Consolidated Statutes for Upper Canada," adding the Chapter when necessary.

What to constitute "The Consolidated Statutes of Upper Canada."

2. Unless otherwise declared or indicated by the context—The words "Her Majesty," "The Queen" or "The Crown," whenever used in the Consolidated Statutes of Upper Canada shall mean Her Majesty, Her Heirs and Successors.

Meaning of the words "The Queen," "The Crown."

3. The word "Governor" shall include the Governor, Lieutenant Governor, or person administering the Government.

Meaning of the words "The Governor."

4. The word "Proclamation" when not otherwise expressed, shall mean a Proclamation under the Great Seal of Canada; the word "Great Seal" shall mean the "Great Seal of this Province."

Meaning of the word "Proclamation."

5. When the Governor is authorized to do an act by Proclamation, it shall, unless otherwise expressed, mean a Proclamation issued under the Great Seal by order of the Governor in Council.

When proclamation to be by Order in Council.

6. The words "Upper Canada" shall mean that part of this Province which formerly constituted the Province of Upper Canada.

The words "Upper Canada."

7. The word "County" shall include United Counties.

The word "County."

The words
"Superior
Courts."

8. The words "Superior Courts" shall mean the Court of Queen's Bench, the Court of Common Pleas and the Court of Chancery.

The words
"Superior
Courts of
Common
Law."

9. The words "Superior Courts of Common Law" shall mean the two former, and "Court of Equity" shall mean the Court of Chancery.

As to Number
or Gender.

10. Words importing the Singular Number or the Masculine Gender shall include more persons, parties or things of the same kind than one, and females as well as males—and the converse. 7 W. 4, c. 14.

The Interpretation
Clause
of the Municipal
Act applied.

11. The interpretation clause of the Act respecting Municipal Institutions shall, so far as the terms explained are respectively applicable, extend to each of the following Consolidated Statutes which relate to any such municipalities.

The word
"Person."

12. The word "Person" shall include any body corporate or politic, or party, and the heirs, executors, administrators or other legal representatives of such person to whom the context applies.

The words
"Month and
Year."

13. The word "Month" shall mean a Calendar month, and the word "Year" a Calendar year.

The words
"Oath, Affirmation,
&c."

14. The word "Oath" shall mean any oath lawfully administered, and shall include a Solemn Affirmation whenever an affirmation may be made instead of an oath, and in like cases the word "Sworn" shall include the word "Affirmed."

Who may
administer
oath, &c.

15. In every case where an oath or affirmation is directed or authorized to be made before any Court, person or officer, such Court, person or officer shall have full power and authority to take and administer the oath or affirmation.

* * * * *

The words
"Justices of
the Peace."

16. The words "Justice of the Peace," shall include Magistrate or two or more Justices of the Peace or Magistrates assembled or acting together; and if anything be directed to be done by or before a Magistrate or a Justice of the Peace or other Public Officer or Functionary, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done, and whenever power is given to any person, Officer or Functionary to do or enforce any act or thing, all necessary powers to enable him to do or enforce such act or thing shall be implied.

A majority to
form a quorum.

17. When any act or thing is required to be done by more than two persons, a majority of them shall be sufficient, unless otherwise specially provided.

18. Unless otherwise provided or there be something in the context or other provisions of the Act indicating a different meaning, or calling for a different construction :

1. The law in the last Act, and in the following series of Acts, is to be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same is to be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof, according to its spirit, true intent and meaning ;

2. The word " shall " is to be construed as imperative and the word " may " as permissive ;

3. Whenever the word " herein " is used in any section of an Act, it shall be understood to relate to the whole Act, and not to that section only.

19. The provisions contained in the Interpretation Act of Canada, and not contained in this Act, shall also apply to the Consolidated Statutes for Upper Canada, as if incorporated herein.

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CHAP. XVIII.

An Act respecting Insolvent Debtors Courts.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

PETITION AND CESSIO BONORUM.

1. In case any person indebted :

Insolvent debtors may apply for relief through the Judges of the County Courts.

1. Gives notice according to the form (No. 1) to one fourth in number and value of his creditors, and causes such notice to be inserted twice in the *Canada Gazette* and twice in some newspapers circulating within the County wherein he resides and had resided for the then last preceding twelve months ; and

Petition to Judge of County Court.

2. In case such person presents to the Judge or acting Judge of the County Court of such County, a Petition for protection from process in the form (No. 2), and sets forth therein any proposal he has to make for the payment of his debts in whole or in part ; and

Schedule.

3. In case he annexes to such petition a full and true Schedule of his debts, with the names of his creditors and the dates of contracting the debts, and the security (if any) given for the same, and also the nature and amount of his property, with the debts owing to him, their dates, the names of his debtors and the nature of the securities (if any) which he has received for such debts ; and

To be verified by affidavit.

4. In case such petition and Schedule be verified by an affidavit of the petitioner in the form (No. 3) sworn before any Judge of a Court of record or of the Court of Chancery in Upper Canada, or before a Commissioner for taking affidavits in any of such Courts, or before any Clerk or Officer of any such Courts otherwise authorized to administer oaths ; and

To be annexed together.

5. In case such affidavit be annexed to such petition and Schedule at the time of filing the same ;

On filing the whole, protection may be granted.

Then on the filing thereof, such Judge or acting Judge may give a protection to the petitioner from all process whatever, either against his person or his property of any description, and such protection shall continue in force, and all process be stayed accordingly until the appearance of the petitioner as hereinafter provided. 7 V. c. 10, s. 69, and *Forms* Nos. 1, 2, 3,—8 V. c. 48, ss. 1, 2.

2. If the petition and affidavit be not in the form prescribed, the petition shall be dismissed. 8 V. c. 48, s. 2.

If petition not in due form, to be dismissed.

3. In case a debt of, or a claim upon, or balance due from a petitioner has been specified in his Schedule sworn to as aforesaid, at an amount which is not exactly the actual amount thereof, without any culpable negligence or fraud or evil intention on the part of the petitioner, the Judge shall allow the Schedule to be amended in that behalf; and in every case in which an amendment of the Schedule is allowed, the petitioner shall be entitled to every benefit and protection of this Act; and the creditor in that behalf shall be entitled to the benefit of all the provisions made for creditors by this Act, in respect of the actual amount of such debt, claim or balance, and neither more or less than the same. 8 V. c. 48, s. 36.

When the judges may allow Schedules to be amended.

4. If any petitioner dies after filing his Petition, the Judge may proceed in the matter of the petition for the discovery and distribution of his property as if the petitioner were living. 8 V. c. 48, s. 13.

If a petitioner dies, the proceedings to continue as if living.

5. Any prisoner in execution upon a judgment obtained for the recovery of a debt, may be a petitioner for protection from process under this Act, and every such petitioner, to whom an *interim* order for protection has been given, shall not only be protected from process as provided by this Act, but also from being detained in prison in execution upon any judgment obtained in any action for the recovery of any debt mentioned in his Schedule.

Any prisoner in execution may petition under this Act, subject to certain exceptions.

6. If any such petitioner, being a prisoner in execution, be detained in prison in execution upon any such judgment, the Judge may order any Officer who has the petitioner in custody by virtue of such execution, to discharge him out of custody as to such execution, without exacting any fee, and such Officer is hereby indemnified for so doing, and no Sheriff, Gaoler, or other person whatsoever shall be liable to any action as for the escape of any such prisoner by reason of such his discharge; and such petitioner so discharged shall, until the making of the final order, be protected by such *interim* order from all process for such time as the said Judge, by such *interim* order or any renewal thereof, thinks fit to appoint, in the same manner as if such petitioner had not been a prisoner in execution: but after the time allowed by any such *interim* order or any renewal thereof, has elapsed, the petitioner shall not, by such discharge, be protected from being again taken in execution upon the judgment, and the judgment shall remain in full force and effect, notwithstanding such discharge. 8 V. c. 48, s. 11.

Any prisoner in execution may petition under this Act, subject to certain exceptions.

When the petitioner a prisoner, the judge may direct him to be brought up.

7. Whenever any such petitioner is a prisoner under any Process, Attachment, Execution, Commitment, or Sentence, and is not entitled to his discharge in manner aforesaid, the Judge may, by Warrant under his hand, directed to the person in whose custody the petitioner is confined, cause him to be brought before such Judge for examination, at any sitting of the Court, either public or private, and the expense of bringing the petitioner shall be paid out of his estate, and such person shall be indemnified by the Warrant of the Judge for bringing up the petitioner. 8 V. c. 48, s. 12.

The protection not to prevent the petitioner from being held to bail by judge's order.

8. Notwithstanding any protection granted under this Act the petitioner may be arrested or held to bail under the authority of a Judge's order for that purpose in cases in which a Judge's order was necessary to authorize an arrest on civil process before the first day of September, one thousand eight hundred and fifty-eight 8 V. c. 48, s. 3,—22 V. c. 96.

When protection granted, the judge shall appoint official assignee in whom estate shall vest, &c.

9. Upon the presentation of any such petition and upon granting a protection thereupon, the Judge shall appoint an Official Assignee in whom all the estate and effects of the petitioner shall forthwith become vested, and such Official Assignee shall forthwith take possession of so much thereof as can be reasonably obtained and possessed without suit, and the said Official Assignee shall hold and stand possessed of the same in the manner and for the purposes herein-after mentioned. 8 V. c. 48, s. 1.

Property in possession of the petitioner as reputed owner, to vest in assignee.

10. If at the time of filing his petition, any petitioner has by the consent and permission of the true owner thereof, in his possession, order or disposition, any goods or chattels whereof the petitioner is reputed owner, or whereof he has taken upon him the sale or disposition as owner, the same shall be deemed the property of the petitioner, so as to become vested in the Assignee or Assignees, for the time being, of his estate and effects. 8 V. c. 48, s. 22.

The judge may order any stock held by petitioner to be transferred to assignee.

11. If any petitioner at the time of filing his petition, or at any time before he becomes entitled to his final Order, has any Government stocks, funds, or annuities, or any of the stock or shares of, or in any public company in Upper Canada, standing in his own name, and in his own right, the Judge may order all persons whose act or conduct is thereto necessary, to transfer the same into the name of such Assignee or Assignees as aforesaid; and all persons whose act or consent is so necessary, are hereby indemnified for all things done or permitted, pursuant to such order. 8 V. c. 48, s. 20.

12. The petitioner's wearing apparel, bedding, and other necessaries of himself and his family, and his working tools and implements, not exceeding in the whole the value of eighty dollars, may be excepted in his petition from the operation of this Act, and in such case shall be excluded from its operation; but such excepted articles, with the values thereof respectively, to be appraised if the Judge thinks fit and ascertained in such manner as he directs, must be fully and truly described by the petitioner in his Schedule, otherwise the exception thereof shall be of no force. 8 V. c. 48, s. 14.

Wearing apparel, &c., to a certain amount, excepted from this Act.

13. After the filing of any petition for protection no distress for rent made and levied upon the goods or effects of the petitioner, shall be available for more than one year's rent accrued prior to the filing thereof, but the landlord or party to whom the rent is due, may be a creditor for the overplus of the rent due, and for which the distress is not available, and shall be entitled to all the provisions made for creditors by this Act. 8 V. c. 48, s. 23.

No distress for rent after petition filed to avail for more than one year's rent previously accrued.

14. Except as herein otherwise directed, in all cases in which it is made to appear to the satisfaction of the Judge that there is reason to suspect and believe that property of the petitioner is concealed in any house or other place not belonging to such petitioner, such Judge shall grant a Search Warrant to the Sheriff of the County, and the Sheriff, or his Deputy or other officer employed by him, shall execute the warrant, according to the tenor thereof; and the Sheriff, Deputy or other officer executing the same, shall be entitled to the protection allowed by law in the execution of a Search Warrant for property reputed to be stolen and concealed. 7 V. c. 10, s. 49,—8 V. c. 48, s. 10.

Power to search for concealed property of petitioners.

15. The Judge may compel the attendance of and examine the petitioner and his wife, and every person known or suspected to have any of the property of the petitioner in possession, or who is supposed to be indebted to the petitioner, and any person whom the said Judge believes capable of giving any information concerning the person, trade, business or calling, dealings or property of the petitioner, or any information material to the full disclosure of his dealings, and may enforce both obedience to such examination and the production of books, deeds, papers, writings, and other documents, in like manner as might be done in a Superior Court of Law or Equity. 8 V. c. 48, s. 10.

A judge may compel attendance of petitioner.

16. The Judge to whom any petition is presented shall, from time to time, make such orders as he deems right, touching the notice to be given to creditors of meetings and examination, and the publication of the notice. 8 V. c. 48, s. 4.

The judge to make order respecting notice of meeting to creditors, &c.

A majority of creditors may choose a creditors' assignee.

17. A majority in number and value of the creditors, who by themselves, or their Attorneys, duly authorized by Letters of Attorney in that behalf, attend at a meeting for the choice of a creditors' Assignee, or at an adjournment thereof, shall, in the presence of a Judge, choose a creditors' Assignee; but if the Judge deems the person so chosen unfit to be such Assignee he may reject him, and he may remove any Assignee, and thereupon another Assignee shall be appointed by him, or be chosen by the creditors (as the case may require), in the manner in this Act provided. 8 V. c. 48, s. 4.

A creditor entitled to vote only upon the amount appearing due to him.

18. In all matters wherein creditors vote, or wherein the assent or dissent of creditors is exercised in pursuance of, or in carrying into effect, this Act, every creditor shall be accounted a creditor in respect of such amount only as upon an account fairly stated between the parties, after allowing the value of mortgaged property, and other such available securities and liens, appears to be the balance due; and all disputes concerning any such matters or amount, shall upon application made, be examined into by the Judge who shall determine the same; but the amount, in respect of which any such creditor votes in any such matter, shall not be conclusive of the amount of his debt for any ulterior purposes of this Act. 8 V. c. 48, s. 19.

Sums payable on annuities to be debts within this Act.

19. All sums of money payable by way of annuity or otherwise at any future time, by virtue of any bond, covenant, or other securities of any nature, shall be deemed debts within the meaning of this Act; and every person who would be a creditor of any petitioner for protection from process for such sums of money, if the same were presently due, shall be admissible as a creditor of the petitioner for the value and no more of such sums of money so payable as aforesaid, which value the Judge shall, upon application at any time made in that behalf, ascertain, regard being had to the original price given for such sums of money, deducting therefrom such diminution in the value thereof as has been caused by the lapse of time between the grant thereof to the time of filing the petition; and such creditor shall be entitled in respect of such value to the benefit of all the provisions made for creditors by this Act, without prejudice, nevertheless, to the respective securities of such creditor, excepting as respects the effect of the final Order which may be obtained by the petitioner under the provisions of this Act. 8 V. c. 48, s. 32.

The value of which the judge shall ascertain.

If an assignee does not accept within six days, another shall be appointed.

20. If any assignee so chosen (or appointed) does not, within six days after notice thereof, signify his acceptance (in writing) and deliver the same to such Judge, his election (or appointment) shall be void, and the Judge shall from time to time proceed to appoint until the acceptance be duly signified. 7 V. c. 10, s. 29.

21. As soon as such acceptance is signified to the Judge as aforesaid, he shall, by an instrument under his hand and seal, declare the choice or appointment of such Assignees and their acceptance; and the said instrument shall be executed in duplicate, one of which shall be lodged in the office wherein the other papers in the case are hereinafter required to be finally deposited, and the other shall be delivered to the Assignees; and either of such duplicates, purporting to be under such hand and seal, shall be received in all Courts in this Province as *prima facie* evidence that the same was executed on the day on which it purports to bear date, that the assignees named therein were duly chosen and appointed, and accepted the office, and that they are authorized to bring and defend actions and suits in that character. 7 V. c. 10, s. 30,—8 V. c. 48, s. 25.

Assignees accepting to be appointed by an instrument.

Copies admissible in evidence.

22. Until an Assignee is chosen by the creditors of any petitioner, the Official Assignee nominated by the Judge may act, and shall be the sole Assignee of the petitioner's property, and, if the Judge so orders, may sell or otherwise dispose of such property or any part thereof, and make such allowance out of the property for the support of the petitioner and his family, as the Judge directs. 8 V. c. 48, s. 15.

Until assignee chosen by creditors, the official assignee to be the sole assignee.

23. The property vested in any Official Assignee alone or jointly with any Assignee chosen by the Creditors, shall not if such Official Assignee resigns or is removed from his office, remain in such Official Assignee alone or jointly with the Assignee so chosen, nor in the heirs, executors or administrators of such Official Assignee, nor in the surviving Assignee alone, in case of the death of such Official Assignee, but all such property shall in every such case go to and be vested in the successor in office of such Official Assignee alone, or jointly with the Assignee chosen by the creditors (if any) as the case may be. 8 V. c. 48, s. 15.

If official assignee resign, property vested in successor, &c.

24. Whenever any petition is dismissed, all sales and dispositions of property and payments duly made, and all other acts theretofore done by any Assignee or any person acting under his authority, or by any messenger or other person under the authority of the Judge, according to the provisions of this Act, shall be good and valid, but the property of the petitioner shall otherwise in such case revert to such petitioner; and no suit shall be commenced or prosecuted against such Assignee, messenger or other person acting as aforesaid, except to recover property of the petitioner detained after an Order made by the Judge for the delivery thereof and a demand made thereupon. 8 V. c. 48, s. 15.

If petition dismissed, sales by assignee to be nevertheless valid, &c.

25. The Judge authorized to act in the matter of any petition may direct remuneration to the Official Assignee

Remuneration of official assignee.

for his services in the matter of such petition, but such remuneration shall in no case exceed the rate of forty dollars per centum on the sum received as the proceeds of the property of the petitioner. 8 V. c. 48, s. 42.

The judge to examine the petitioner or creditors or witnesses upon oath, &c.

26. A Judge shall, on the day appointed for that purpose, examine upon oath the petitioner and any creditor who attends the examination, or any witness whom the petitioner or any creditor calls; and such Judge may summon to be examined before him any debtor or creditor of such petitioner, or any other person whose evidence appears necessary for the foregoing enquiry. 8 V. c. 48, s. 4.

The judge may commit a petitioner for prevarication.

27. The Judge may, by Warrant under his hand and seal, commit to prison, for such time as he thinks fit, not exceeding one month, any petitioner who prevaricates or makes any false statement before him. 8 V. c. 48, s. 7.

The judge may summon witnesses, &c.

28. The Judge may, by writing under his hand, summon any witness or person, other than the petitioner, to be examined before him on oath or affirmation to be taken before him, respecting the examination of the petitioner or any other matters that may arise under any such petition, and may enforce the attendance of and compel such witness or person to answer by the like means and to the same extent as may be done in the case of a contumacious witness in the Superior Courts of Common Law. 8 V. c. 48, ss. 1, 7,—7 V. c. 10, s. 36.

And enforce attendance and compel answer.

The judge may renew order for protection.

29. The Judge may, at the first examination of the petitioner, and afterwards from time to time, renew the order for protection, until the final order for protection and distribution. 8 V. c. 48, s. 6.

If the petitioner's debts were contracted by fraud, breach of trust or by other culpable misconduct, the judge shall not make final order.

30. In case on the day for the first examination of the petitioner, or at any adjournment thereof, it appears to the Judge that the debts of the petitioner, or any of them, were contracted by any manner of fraud or breach of trust, or by any prosecution whereby he had been convicted of any offence, or without his having at the time a reasonable or probable expectation of being able to pay such debt or debts, or that such debts, or any of them, were contracted by reason of a judgment in any proceeding for breach of the revenue laws, or in any action for breach of promise of marriage, seduction, criminal conversation, libel, slander, assault, battery, malicious arrest, malicious suing out a *fiat* of bankruptcy, or malicious trespass, or that the petitioner has parted with any of his property since the presenting of his petition, the Judge shall not in any such case name any day for making such final Order, or renew such *interim* Order. 8 V. c. 48, s. 31.

31. In every such case wherein the petitioner has been a prisoner in execution and discharged out of custody by order of the Judge under the provision herein in that behalf contained, the petitioner shall be remanded by an Order from the Judge to his former custody.

And if petitioner was a prisoner he shall be remanded.

32. If none of the matters aforesaid so appear, and the Judge is satisfied that the petitioner has made a full discovery of his estate, effects, debts and credits, the Judge may cause notice to be given that on a certain day to be therein named, he will proceed to make a final Order, unless cause be shown to the contrary. 8 V. c. 48, s. 31.

If all appears clear, the judge may give notice that on a day named he will make a final order nisi.

33. The Judge may, at the time appointed for making the final Order or at any adjournment thereof, adjourn the consideration of such final Order *sine die*. 8 V. c. 48, s. 32.

Final order may be adjourned *sine die*.

34. If for any of the causes aforesaid, no day be named for making the final Order, or if the consideration of such final Order be adjourned *sine die*, or if such final Order be refused, then, after the expiration of such time subsequent to the filing of the petition, as the Judge, having regard to all the circumstances of the insolvency and the conduct of the petitioner as an insolvent debtor before and after his insolvency, thinks just, and after hearing the petitioner or any of his creditors, or his or their Counsel or Attorneys, the Judge may make an Order to protect the petitioner from being taken or detained under any Process whatever for or in respect of the several debts and sums of money at the time of filing his petition due, or claimed to be due, from the said petitioner to the several persons named in his Schedule as creditors or as claiming to be creditors, for the same respectively, or for which such persons should have given credit to the petitioner before the time of filing his petition and which were not then payable, and as to the claims of all other persons not known to the petitioner at the time of making such Order, who may be endorsers or holders of any negotiable security set forth in the said Schedule. 8 V. c. 48, s. 34.

If no day named for final order, judge may make order for the protection of the petitioner, &c.

35. If it appears to the Judge—1, that the allegations in the petition and the matters in the Schedules are true—and 2, that the debts of the petitioner were not contracted by any manner of fraud or breach of trust—and 3, that he has not been convicted of any offence—and 4, that such debts were not contracted without his having at the time reasonable assurance of being able to pay his debts—and 5, that such debts were not incurred by reason of any judgment or proceeding for breach of the Revenue Laws, or of any action for breach of promise of marriage, seduction, criminal conversation, libel, slander, assault and battery, malicious ar-

On being satisfied that the petitioner's debts were contracted without fraud, &c., the judge may grant a final order of protection.

rest, malicious suing out a *fiat* in bankruptcy, or malicious trespass—and 6, if it also appears that the petitioner has made a full discovery of his estate, effects, debts and credits, and has not parted with any of his property since the presenting of his petition, the Judge may cause notice to be given that on a certain day to be named therein, he will, unless cause be shown to the contrary, proceed to make an order in the form No. 4, which order shall be called a final order, and shall be for the protection of the person of the petitioner from all Process, and for the vesting of his estate and effects in the Official Assignee named by such Judge, together with an Assignee chosen by the majority in number and value of the creditors who attended before the Judge on the day appointed by him for that purpose, or for the carrying into effect any proposal which the petitioner may have set forth in his petition as hereinbefore provided. 8 V. c. 48, s. 4.

And may from time to time adjourn the same.

36. The Judge without further notice may from time to time adjourn the consideration of such final Order, and he may in such final Order direct some allowance to be made for the support of the petitioner out of his estate and effects. 8 V. c. 48, s. 4.

Effect of final order.

37. The final Order, under the provisions of this Act, shall protect the person of the petitioner from being taken or detained under any Process whatever in respect of the several debts and sums of money at the time of filing his petition due or claimed to be due from such petitioner to the several persons named in the Schedule as creditors or as claiming to be creditors for the same respectively, or for which such persons gave credit to the petitioner before the time of filing such petition and which were not then payable, or in respect of the claims of any other persons not known to the petitioner at the time of making the final Order who may be endorsees or holders of any negotiable securities set forth in such Schedule; and every such final Order may be made without specifying therein any such debts or sums of money, or claims as aforesaid. 8 V. c. 48, s. 29.

Form and contents of final order.

If petitioner in prison in execution, the judge may order his discharge.

38. If any petitioner, being a prisoner in execution at the time of filing his petition, is detained in prison for any debt or claim in respect of which he is protected from process by his final Order, the Judge may order any officer who has such petitioner in custody by virtue of such execution, to discharge such petitioner without exacting any fee, and such officer is hereby indemnified for so doing. 8 V. c. 48, s. 30.

If petitioner arrested for debt, the Judge may order his discharge.

39. If the petitioner has been taken or detained under any process whatever, for any debt or claim in respect of which he is protected from process by such Order as last aforesaid, the Judge may order the officer who has such petitioner in custody to discharge such petitioner therefrom without

exacting any fee, and such officer is hereby indemnified for obeying such order. 8 V. c. 48, s. 35.

40. If any suit or action be brought against any petitioner for or in respect of any debt contracted before the date of filing his petition, it shall be a sufficient plea in bar of the said suit or action, that a petition was duly presented and a final Order for protection and distribution made by a Judge duly authorized, whereof the production of the Order signed by the Judge, with proof of his handwriting, shall be sufficient evidence. 8 V. c. 48, s. 24.

Final order may be pleaded in bar.

41. In case at any time after the final Order has been made, a creditor or the Official or other Assignee gives one month's notice to the petitioner either by personal service, or if he cannot be found, by service at the place of his residence mentioned in his notice of petition, that such Creditor intends to apply by motion to the Judge, or in case of his death, resignation or removal, to the Judge appointed to succeed him, that the final Order be rescinded as far as relates to the protection of the petitioner's person from process, and as far as relates to the effect of such order in bar of actions; and in case such notice has been published twice in the *Canada Gazette* and twice in the same paper in which the notice of the petition was given, or in some other paper circulating in the same County, and in the event of a Creditor being the applicant, if he has served the Official and other Assignee with one month's notice to attend the said Judge, the said Judge shall hear the matter of such motion and any evidence in support of it, and what the petitioner has to allege against it, and any evidence against it, and shall examine the petitioner if he desires to be examined, or if the Judge thinks fit,—then in case the Judge sees reason to believe that the petitioner had not before the making of such final Order made a full disclosure of his estate, effects and debts, or since the making of such order had not given notice to the Assignees of any property after acquired by him, the Judge shall make such rescinding order as is hereinbefore mentioned; and the said Judge, in case he refuses to make a rescinding order, may order the petitioner's costs of the application to be paid by the creditor who made the motion, or by the assignee chosen by the creditors in case he made the motion, but not out of the Petitioner's estate and effects. 8 V. c. 48, s. 26.

After final order the judge may, under certain circumstances and after due notice, &c., rescind the same.

42. After the issue of the final order, the whole estate present, and subject to the provisions hereinafter contained, the future estate as well real as personal, and all the effects, and all the credits of the Petitioner, shall, without any deed or conveyance, become absolutely vested in the Official Assignee and the Assignee chosen by the creditors, which Assignees shall hold the same for the purposes of this Act,

Property and credits of petitioner to vest in assignees.

and may sue and be sued respecting the same. 8 V. c. 48, s. 8.

Effects of petitioner at the date of the final order alone liable for his debts, unless otherwise ordered.

43. No other estate, real or personal, effects or credits of any such petitioner other than those of which he was possessed or entitled to at the date of the final order, shall, unless otherwise ordered as hereinafter provided, be liable to or applicable in satisfaction of the debts hereinbefore mentioned. 8 V. c. 48, s. 8.

Under what circumstances property acquired by petitioner after final order, to vest in assignees.

44. The Assignees may, at any time after the final order, claim and demand from the petitioner any estate and effects acquired by him after such order has been made, and all such estate and effects, of what kind soever and wheresoever situate, shall be absolutely vested in such Assignees upon their filing a copy of their claim after being served upon the petitioner personally, or by leaving it at the place of residence mentioned in his notice of petition, and they shall hold the same in like manner as they held the estate and effects of the petitioner transferred by force of the final order, as hereinbefore provided. 8 V. c. 48, s. 9.

If so ordered by a judge.

45. No Assignee shall take possession of any estate or effects which the Insolvent acquired or became possessed of after the final order herein mentioned was made, except by an order of the Judge for that purpose, and then only to the extent and at the time and in the manner directed by such order, and after giving such notices and doing such acts as by the orders and regulations, made under the authority of this Act, are required and directed in that behalf. 8 V. c. 48, s. 9.

Power of assignees over the same.

46. In case any such Assignee has died or been lawfully removed and a new Assignee has been duly appointed, all estate, real and personal, and such effects and credits as were or remained vested in such deceased or removed Assignee shall, without any deed or conveyance, vest in the new Assignee, either alone or jointly with the existing Assignees, as the case may require, and every such Assignee shall be deemed an Officer of the Court in which the petition is filed, and shall be liable as such to the control thereof; but the property of the Petitioner shall in every case be possessed and received by the Official Assignee alone, unless otherwise ordered by the Judge. 8 V. c. 48, s. 8.

The Court of Chancery may make orders for securing the property of petitioners.

47. The Chancellor and Vice-Chancellors of Upper Canada, may, from time to time, make such orders, rules and regulations for the security of the property of the Petitioner, as they may judge reasonable and proper. 8 V. c. 48, s. 8.

48. All powers vested in any Petitioner whose estate has, under the provisions of this Act, been vested in an Assignee or Assignees, which such Petitioner might legally execute for his own benefit, are hereby vested in such Assignee or Assignees, to be by such Assignee or Assignees executed for the benefit of the creditors of such Petitioner under this Act, in such manner as such Petitioner might have executed the same. 8 V. c. 48, s. 16.

Powers of petitioner over his estate to vest in the assignees.

49. The Assignee or Assignees of the Petitioner may, from time to time, as there may be occasion, sue in his or their own name or names, for the recovery and enforcing of any property or rights of such Petitioner, but in trust for the creditors of the Petitioner under this Act, and may give such discharge as may be requisite to any person indebted to such Petitioner, and may make compositions with any debtors or accountants to the Petitioner where the same appear necessary, and may take such reasonable part of any such debts as can upon such composition be gotten, in full discharge of such debts and accounts, and may submit to arbitration any difference or dispute between the Assignee or Assignees and any person or persons for or on account or by reason of any matter or thing relating to the property of the Petitioner. 8 V. c. 48, s. 18.

The assignees may sue in their own or in the petitioner's name, &c.

And may make compositions with debtors.

50. No such composition or submission or arbitration shall be made nor shall any suit in equity be commenced by any such Assignee or Assignees, without the approbation of the Judge nor without the consent in writing of the major part in value of the creditors of the Petitioner, expressed at a meeting held pursuant to a notice thereof, published in the *Canada Gazette*, at least fourteen days before the meeting, and also in some newspaper usually circulated in the neighbourhood of the place where the Petitioner had his last usual residence before the filing of his petition. 8 V. c. 48, s. 18.

Circumstances necessary to justify a composition or arbitration.

51. Whenever any Assignee dies, resigns, or is removed, or a new Assignee is duly appointed, no action at law or suit in equity shall be thereby abated, but the Court in which any action or suit is depending may, upon the suggestion of such death, resignation or removal and new appointment (if any), allow the name or names of the surviving or new Assignee to be substituted in the place of the former, and such action or suit shall be prosecuted in the name or names of the said surviving or new Assignee in the same manner as if he had originally commenced the same. 8 V. c. 48, s. 21.

Death of assignee not to interfere with suits then pending.

52. If at the expiration of twelve months from the filing of any petition, there remains any outstanding debts or other property, due or belonging to the estate of the peti-

Debts due to petitioners may be sold after expira-

tion of twelve months. tioner which cannot, in the opinion of the Judge, be collected and received without unreasonable or inconvenient delay, the Assignees under the direction of the Judge, may sell and assign such debts and other property in such manner as may be ordered by the Judge. 8 V. c. 48, s. 38.

If assignees accept leases of petitioners, the petitioner not to remain liable.

53. In case the petitioner is entitled to any lease or agreement for a lease, and his Assignee or Assignees accept the same and the benefit thereof as part of the petitioner's property, the petitioner shall not be liable to pay any rent accruing after the filing of his petition nor be in any manner sued after such acceptance in respect of any subsequent non-observance or non-performance of the conditions, covenants or agreements therein contained. 8 V. c. 48, s. 17.

If assignees decline accepting a lease, what course the lessor or contractor may adopt.

54. In case the said Assignee or Assignees, upon being required so to do, decline to determine whether he or they will or will not accept such lease or agreement for a lease, the lessor or person agreeing to make the lease, his heirs, executors, administrators or assigns, may apply to the Judge praying that such Assignee or Assignees may either accept the same or deliver up such lease or agreement for a lease and the possession of the premises demised or intended to be demised; and the Judge shall thereupon make such order as under all the circumstances of the case seems meet and just, and such order shall be binding on all parties. 8 V. c. 48, s. 17.

When registration necessary upon the transfer of property, real or personal, the instrument mentioned in section 21 to be registered in lieu of a conveyance.

55. Where a conveyance or assignment of any real or personal property of a petitioner requires to be registered, enrolled, or recorded in any Registry or other office in Upper Canada, the certificate of the appointment of an Assignee or Assignees, as provided by the twenty-first section of this Act, shall be registered in the Registry Office or place wherein such conveyance or assignment requires to be registered, enrolled, or recorded. 8 V. c. 48, s. 8.

Effect of such registration and consequences of neglect.

56. The registry hereby directed shall have the like effect to all intents and purposes as the registry, enrollment or recording of such conveyance or assignment as last aforesaid would have had; and unless the certificate of such appointment be registered as aforesaid within two months from the date of such appointment, the title of any purchaser of any such property as last aforesaid for valuable consideration, who has duly registered, enrolled, or recorded his purchase deed previous to the registry hereby directed, shall not be invalidated by reason of the appointment of an Assignee or Assignees as aforesaid, or of the vesting of such property in him or them consequent thereupon. 8 V. c. 48, s. 8.

Any transfer by petitioner in contemplation of insol-

57. If the petitioner, in contemplation of his becoming insolvent, or being in insolvent circumstances, and either before or after the filing of his petition, voluntarily con-

veys, assigns, transfers, charges, delivers, or makes over any estate, real or personal, or any security for money, bond, bill, note, money, goods or effects whatsoever, to any creditor or to any person in trust for or to, or for the use, benefit or advantage of any creditor, or to any person who is or may be liable as surety for the petitioner, every such conveyance, assignment, transfer, charge, delivery and making over shall be deemed fraudulent and void, as against any Assignee or Assignees of the estate and effects of the petitioner, appointed under the provisions of this Act; but no such conveyance, assignment, transfer, charge, delivery or making over, shall be deemed fraudulent and void, if made by the petitioner more than three months before the filing of the petition and not with the view and intention of petitioning the Court for protection from Process. 8 V. c. 48, s. 27.

veny or after
filing petition,
to be void.

58. In all cases where any petitioner, whose estate has been vested in an Assignee or Assignees, under the provisions of this Act, has given any Warrant of Attorney to confess judgment, or any *Cognovit actionem*, or Bill of Sale, whether for a valuable consideration or otherwise, no person shall, after the filing of the petition of such petitioner, avail himself of any execution, issued upon any judgment obtained upon such Warrant of Attorney or *Cognovit actionem*, either by seizing or selling the property of the petitioner, or any part thereof, or by selling any of such property theretofore seized, or any part thereof, or avail himself of such Bill of Sale; but any person to whom any sum of money is due in respect of any such Warrant of Attorney, *Cognovit actionem*, or Bill of Sale, may be a creditor for the amount under this Act. 8 V. c. 48, s. 28.

Effect of a
confession of
judgment by
a petitioner,
&c.

59. Whenever, after an Audit, there appears to the Judge to be in the hands of the Official Assignee any balance wherewith a dividend may be made, proceedings shall be had forthwith, under the direction of the Judge, for making such dividend, and also when it appears necessary, for correcting and ascertaining the list of creditors entitled to receive the same. 8 V. c. 48, s. 37.

When divi-
dends shall be
declared and
made.

60. Notice of any sitting of the Court ordered to be held for such ascertaining of debts, or for an Audit, or for declaring a dividend thereupon, or for all such purposes, shall be given for such time and such manner as the Judge from time to time directs. 8 V. c. 48, s. 37.

Notice to be
given of sit-
tings for de-
claring divi-
dends, audit,
&c.

61. Such dividend shall be made amongst the creditors of the petitioner, whose debts are admitted in his Schedule, sworn to by the petitioner, and amongst such other creditors (if any) who prove their debts in pursuance of an Order of the Judge made in that behalf, in proportion to the

Who entitled
to share in
dividends.

amount of the debts so admitted or so admitted and proved, as the case may be. 8 V. c. 48, s. 37.

If disputed,
the judge to
decide.

62. If the petitioner, or any creditor or assignee, objects in whole or in part to any debt tendered to be so proved as aforesaid, or to any debt mentioned in the Schedule of the petitioner, or if any person whose demand is stated in such Schedule but is not admitted therein to the extent of such demand, claims to be admitted as a creditor to the extent of such demand, or for more thereof than is so admitted, the said objections and claims shall, upon application duly made, be examined into by the Judge, and the decision of the Judge thereupon shall be conclusive with respect to the title of such creditor or creditors to his or their share of such dividend. 8 V. c. 48, s. 37.

The judge
may require
creditors to
prove their
debts.

63. If in any case it appears expedient, the Judge may, at any time, by such notice as he directs in that behalf, cause all or any of the creditors to prove their debts in such manner as he may require, and the Judge may decide upon such debts and the right to receive dividends thereupon, and do all things requisite thereto, as aforesaid. 8 V. c. 48, s. 37.

County court
judges may
make rules
and orders for
effecting the
objects of this
Act.

64. The Judge of every County Court may from time to time make such orders, rules and regulations as he thinks fit, for the better carrying this Act into execution, and particularly for regulating and appointing the duties of the Official Assignees and of the other Assignees, the auditing of their accounts, the collecting of the debts, and the realizing of the estate and effects of the petitioner, and the notification of the time of hearing petitions or motions in the *Canada Gazette* or otherwise. 8 V. c. 48, s. 39.

And may en-
force rules
and orders
and, if need
be, fine and
imprison, &c.

65. The Judge may enforce the performance of any order, rule or regulation made in conformity to the next preceding clause, and in his discretion, may fine or imprison, or both fine and imprison for any wilful non-observance of the same and may, by attachment, compel the payment of any costs which he is authorized to order, in the same manner, and as fully as he could do acting as a judge in the County Court. 8 V. c. 48, s. 40.

The Superior
Courts may
make Table of
Costs.

66. Her Majesty's Superior Courts of Common Law may from time to time regulate and establish a Table of Costs for any matter to be done under this Act, and the table of costs already provided by rule of the Court of Queen's Bench shall continue unless altered under the provisions of this Section. (*See Rule Q. B. Hilary Term, 9 V.*)—8 V. c. 48, s. 41.

Petitions or
copies receiv-
able in evi-

67. Any petition and any proceeding in the matter of such petition purporting to be signed by any such Judge,

or a copy of such petition or other proceeding purporting to be so signed, shall, in all cases, be receivable as evidence of such proceedings having respectively taken place. 8 V. c. 48, s. 43.

68. In the case of any person who was a trader within the meaning of the Act relating to Bankrupts, seven Victoria, chapter ten, before the passing thereof, and who was excluded from its operation by reason of his having before that time failed in his business under such circumstances that had the failure taken place after the passing of the said Act, he could have availed himself of the provisions thereof while in force, the final order shall, in addition to its other effects, operate as a discharge of all debts due up to the day of his filing his petition as fully and to the same extent as if such trader had obtained a certificate under the said Act relating to bankrupts; but since the expiration of the said Act (except as continued for special purposes) this Act shall not entitle any such trader now to file a petition, and avail himself of this section, unless he could have filed a petition under the Statute eighth Victoria, chapter forty-eight, and have availed himself of the fifth section thereof had that Act not been repealed. 8 V. c. 48, s. 5.

Effect of final order in certain special cases.

69. All traders within the meaning of the Bankrupt Act, passed in the seventh year of Her Majesty's Reign, intituled, *An Act to repeal an Ordinance of Lower Canada, intituled, an Ordinance concerning Bankrupts and the administration and distribution of their estate and effects, and to make provision for the same object throughout the Province of Canada*, who, while that Act was in full force in Upper Canada, did, at the request of some of their creditors, testified by their being parties thereto, execute *bonâ fide* and without fraud, assignments of all their property for the benefit of their creditors or such of them as might choose to come into such assignments, may avail themselves of the benefit of this Act on their taking the steps and proceedings herein set forth for obtaining their discharge. 14, 15 V. c. 116, s. 1.

Certain traders within the meaning of the former Bankrupt Act entitled to the benefit of this Act.

70. As to such persons, the order called the final order shall, in addition to its effect, as mentioned in the thirty-fifth section of this Act, operate as a discharge of all debts due up to the date of the assignment in each case respectively, as fully and completely and to the same extent as if such traders respectively had obtained a certificate under the Bankrupt Act hereinbefore mentioned. 14, 15 V. c. 116, s. 2.

Effect of final order in such cases.

71. The following are the forms referred to in the foregoing sections of this Act:—

(No. 1.)

FORM OF NOTICE.

I, A. B., at present, and for _____ months past, residing at _____, in the Township of _____, in the County of _____, and being (*here set forth the description of the Debtor and his profession or calling, if any,*) do hereby give notice that I intend to present a petition to _____, Judge of the County Court for the County of _____, praying to be examined touching my debts, estate and effects, and to be protected from all Process, upon making a full disclosure and surrender of such estate and effects for payment of my just and lawful debts; and I hereby further give notice, that the time when the matter of the said Petition will be heard is to be advertised in the *Canada Gazette*, and in the _____ newspaper, one month at the least after the date hereof.

As witness my hand, this _____ day of _____, in the year _____.

(No. 2.)

FORM OF PETITION FOR PROTECTION FROM PROCESS.

To the Judge of the County Court of the County of _____ :

The humble Petition of (*insert at full length the name, address and quality of the Petitioner, and also the trade or business, or if more than one, the trades or businesses which he carries, or has carried on during his twelve months' residence within the County of the Court*),—

SHEWETH :

1. That your Petitioner has resided twelve months within the County of this Honorable Court, that is to say (*insert the places and periods of residence*) ;

2. That your Petitioner has become indebted to divers creditors, whose names are inserted in the Schedule A (*or, as the case may be,*) to this Petition annexed, and that he is unable to pay his debts in full ;

3. That your Petitioner has examined the said Schedule, and that such Schedule contains a full and true account of your Petitioner's debts and the claims against him, with the names of his creditors and claimants, and the dates of contracting the debts and claims severally, as nearly as such debts can be stated, the nature of the debts, claims and securities (*if any*), given for the same, and that there is reasonable ground in his belief for disputing so much of the debts as are thereby mentioned as disputed ; and also a true account of the nature and amount of his property, and an inventory of the same, and of the debts owing to him with their dates as nearly as such dates can be stated, and the names of his debtors, and the nature of the security (*if any*), which he has for such debts ; and that the said Schedule

also contains a balance-sheet of so much of his receipts and expenditure as is required by this Honorable Court in that behalf, and doth fully and truly describe the wearing apparel, bedding and other necessities of your Petitioner and his family, and his working tools and implements;

4. That your Petitioner has not parted with or changed any of his property (except for the necessary support of himself and his family, and the necessary expenses (not exceeding dollars) of this his Petition, or in the ordinary course of trade,) at any time within three months of the date of filing this his Petition, or at any time with a view to this Petition;

5. That your Petitioner is desirous that his estate should be administered under the protection and direction of this Honorable Court, and that he verily believes such estate is of the value of dollars at the least, unencumbered, and beyond the value of his wearing apparel and other matter which your Petitioner is authorized to except by law, and that the same is available for the benefit of his creditors;

6. That your Petitioner submits to this Honorable Court the proposal for the payment of his debts contained in the said Schedule. (*Omit this paragraph if no special proposal*);

7. That your Petitioner is ready and willing to be examined from time to time touching his estate and effects, and to make a full and true disclosure and discovery of the same;

8. Your Petitioner therefore prays such relief in the premises as, by the Statute for the relief of Insolvent Debtors, may be adjudged by this Honorable Court.

And your Petitioner shall ever pray, &c., &c.

Signed by the said Petitioner, on the day of , one thousand eight hundred and , in the presence of Attorney or Agent in the matter of the said Petition.

(No. 3.)

AFFIDAVIT VERIFYING PETITION AND SCHEDULE.

A. B., of , the Petitioner named in the Petition hereunto annexed (*if the Petitioner affirm, alter accordingly*), maketh oath and saith—That the several allegations in the said Petition, and the several matters contained in the Schedule hereunto annexed are true.

Sworn, &c.

(No. 4.)

FINAL ORDER FOR PROTECTION FROM PROCESS.

In the Insolvent Court for the County of

In the matter of the Petition of , of
in the of , an Insolvent Debtor;

Be it remembered that the said _____, having presented his Petition for protection from process to this Honorable Court, and such Petition having been duly filed in Court, and the said Petitioner having duly appeared and been examined touching his debts, estate and effects, and it appearing that the said _____ by virtue of the Statute in that case made and provided, is entitled to the protection of his person from being taken or detained under any Process whatever in respect of the several debts and claims hereinafter mentioned, a final Order is hereby made to protect the person of the said _____

from being taken or detained under any Process whatever in respect of the several debts or sums of money due or claimed to be due after the time of filing his Petition, from the said Petitioner to the several persons named in his Schedule as creditors or as claiming to be creditors for the same respectively, or for which such persons had given credit to the said Petitioner before the time of filing his Petition and which were not then payable and as to the claims of all other persons not known to the said Petitioner, at the time of making this Order who may be endorsees or holders of any negotiable security set forth in his said Schedule ; and it is hereby directed that the proposal of the said Petitioner, set forth in his Petition, for the payment of his debts, be carried into effect in the following manner, that is to say : *(here state particularly the manner in which the same is to be carried into effect.)*

Given under my hand, this _____ day of _____
one thousand eight hundred and _____.

(Signed,)

Judge of the County Court
of the County of _____

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CHAP. XIX.

An Act respecting the Division Courts.

HER Majesty, by and with the advice and consent of the
Legislative Council and Assembly of Canada, enacts
as follows:

* * * * *

172. No protection, order or certificate granted by any Court of Bankruptcy, or for the relief of insolvent debtors, shall be available to discharge any Defendant from any order of commitment as aforesaid. 13, 14 V. c. 53, s. 95, *the end.*

* * * * *

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Excellent Majesty.



CHAP. XXI.

An Act respecting the Practice and Procedure in Suits instituted on behalf of the Crown, in matters relating to the Revenue and the repeal of Letters Patent.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

1. Every Commission, Extent, Writ, or other Process issued from either of the Superior Courts of Common Law for Upper Canada by or on behalf of the Crown, may be tested, made returnable and be returned on any day certain in Term or Vacation to be named in such Commission, Extent, Writ or other Process. 20 V. c. 2, s. 1.

2. At the return of any such Commission, Extent, Writ or other Process, the like rules may be given, and such other proceedings had, and such subsequent Writs and Process issued, at any time in Vacation, as may be given, had or issued in Term time. 20 V. c. 2, s. 1.

3. Every Commission, Extent, Writ or other Process, rule and proceeding issued or had in Vacation, shall be as valid and effectual as if the same had been issued or had in Term. 20 V. c. 2, s. 1.

4. Nothing herein contained shall extend to alter the time for filing any pleadings. 20 V. c. 2, s. 1.

5. In case a person enters a claim to any goods seized under any Extent, or returned as forfeited (which he may do in Vacation), the further proceedings shall be according to the ordinary practice of the Court of Exchequer in England. 20 V. c. 2, s. 1.

6. In case in any information, action, suit and other legal proceeding before any Court or Tribunal whatever in Upper Canada, by or on behalf of the Crown, against any Corporation or person, in respect of any lands, tenements or hereditaments, or of any goods or chattels belonging to or accruing to the Crown, or standing or being in the name of Her Majesty, or in respect of any sum of money due and

owing to Her Majesty, by virtue of any vote of Parliament for the service of the Crown, or of any Act of Parliament relating to the public Revenue, or in any manner whatsoever, judgment be given for the Crown, Her Majesty's Attorney General for Upper Canada may recover costs, in the same manner as and under the same rules, regulations and provisions that apply to the payment or receipt of costs in proceedings between Subject and Subject. 20 V. c. 2, s. 2.

7. If in any such information, action, suit or other proceeding, judgment be given against the Crown, the defendant may recover costs, in like manner and subject to the same rules and provisions as though such proceeding had been had between Subject and Subject; And the Receiver General shall pay such costs out of any moneys voted by Parliament for that purpose. 20 V. c. 2, s. 2.

Defendant may recover costs in revenue cases.

8. The Judges of the Superior Courts of Common Law in Upper Canada, or any four of them, of whom the Chief Justices shall be two, may make such general rules and orders for the regulation of the pleadings and practice on informations, suits and other proceedings instituted by or on behalf of the Crown, in Her Majesty's Courts of Common Law in Upper Canada, and may frame such writs and forms of proceedings, as to them seem expedient. 20 V. c. 2, s. 3

Superior Courts of Common Law to make rules, &c.

9. All such rules, orders or regulations shall immediately upon the making of the same be transmitted to the Governor and be by him laid before both Houses of Parliament, if Parliament be then sitting, or if Parliament be not sitting then, within five days after the next meeting thereof. 20 V. c. 2, s. 3.

Rules to be laid before Parliament.

10. No such rule, order or regulation shall have effect until three months after the same has been so laid before both Houses of Parliament. 20 V. c. 2, s. 3.

Not to have effect for 3 months after laid before Parliament.

11. Any rule, order or regulation so made shall, from and after such time, be binding and obligatory on all Courts of Common Law and on all Courts of Error or Appeal into which any Judgment of the said Courts may be carried. 20 V. c. 2, s. 3.

Rules to be binding. &c.

12. At any time within three months next after such rules, orders and regulations have been laid before Parliament, the Governor in Council, by Proclamation inserted in the *Canada Gazette*, or either of the Houses of Parliament, by Resolution passed, may suspend the whole or any part of such rules, orders or regulations; in either of which cases the whole, or the part thereof so suspended, shall not be binding on the Superior Courts, or on any other Court of Common Law, or Court of Error or Appeal. 20 V. c. 2, s. 3.

The Governor or Houses of Parliament may suspend rules.

Court of Chancery and Superior Courts may issue writs of *Scire Facias* in the manner, &c., as the Court of Chancery in England.

13. Notwithstanding the want of enrolment, it shall be lawful for the Court of Chancery, or either of the Superior Courts of Common Law to issue Writs of *Scire Facias* to repeal Letters Patent, grant or other matter of Record under the Great Seal, in the same manner and under the same restrictions, as near as may be, as such Writs are now issuable from the Court of Chancery in England; and all the proceedings thereafter shall be, as near as may be, the same as in England. 22 V. c. 97, s. 1.

Exemplification of letters patent, &c., to be filed, and *fiat* of Attorney General to be obtained before writ issues.

14. Before the issue of any such writ of *Scire Facias*, the party making application for the same shall, in addition to the *Fiat* of the Attorney General, file in the Court from which the writ is to be issued an exemplification under the Great Seal of the Province of the Letters Patent, grant or other matter of record upon which the said Writ of *Scire Facias* is to be founded. 22 V. c. 97, s. 2.

Judges to meet and make rules and orders under this Act.

15. The Judges of the said Court of Chancery and of the said Superior Courts of Common Law, or any six of them,[†] of whom the Chancellor and the two Chief Justices shall be three, may make such general rules and orders as in their judgment may be necessary or proper for the effectual execution of the two last preceding sections and of the intention and object thereof, and for that purpose may meet from time to time as occasion requires. 22 V. c. 97, s. 3.

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CHAP. XXVI.

An Act respecting relief of Insolvent Debtors.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

INSOLVENT DEBTORS IN EXECUTION.

Weekly allowance to Debtors in close custody.

1. If a debtor in close custody:—

1. Upon *mesne* process; or

2. In execution; or

3. Upon an attachment or other process for non-payment of costs, or for non-payment of any sum of money awarded, or for the non-payment of any claim in the nature of a debt or demand due being a sum certain or capable of being ascertained by computation and not in the nature of a penalty to enforce the doing of some act other than the payment of a sum of money (in which several cases the debtor shall be deemed to be a prisoner in execution), makes oath:—

1. That he is a prisoner in close custody, setting forth on which of the causes of detention above specified; and

2. That he is unable to find security for the limits; and

3. Is not worth the sum of five pounds; and

4. In case he is in custody on *mesne* process that he is unable to procure bail to the action, and that he does not believe the demand of the Plaintiff to be just, and for that cause, and no other, resists payment of the same and refuses to confess judgment for the sum sworn to,—the Court from which the process issued, or any Judge having authority to dispose of matters arising in suits in such Court, shall make a rule or order on the Plaintiff at whose suit the debtor is detained, to pay to such debtor on the third Monday after the service of such rule or order, and upon each Monday thereafter, so long as such debtor is detained in prison at the suit of such Plaintiff for such cause, the sum of two dollars, and such payment shall be made to the debtor or to the gaoler in whose custody he is, for the use of such debtor.

In what cases debtors in close custody to be entitled to weekly allowance.

The allowance, when payable.

2. In default of such payment the debtor, on his affidavit of the default and after service of a rule *nisi* or Judge's

When debtor entitled to be discharged, if not paid.

Summons, to be obtained on such affidavit, shall, unless sufficient cause is shewn to the contrary, be discharged from custody by rule or order; but such discharge shall not, in case the debtor was confined on *mesne* Process, prevent the Plaintiff from proceeding to judgment and execution against the body, lands or goods according to the practice of the Court, and in case the debtor is a prisoner in execution, such discharge shall not be a release or satisfaction of the Judgment or other debt or demand, nor shall such discharge, for the non-payment whereof the debtor was in custody, deprive the Plaintiff of any remedy against the lands or goods of such debtor. 19 V. c. 43, s. 295.

Debtor not entitled to allowance or to his discharge in default of payment until he has answered interrogatories touching his property.

3. When a debtor applies for the weekly allowance, or to be discharged from custody for the non-payment thereof, the Plaintiff may file interrogatories for the purpose of discovering any property or effects such debtor may be possessed of or entitled to, or which may be in the possession or under the control of some other person for his use or benefit, or which he may have fraudulently disposed of to injure his creditor, and the Plaintiff may serve a copy of such interrogatories on such debtor, and thereupon, and until the debtor has fully answered the same upon oath to the satisfaction of the Court or Judge, and filed his answers and given sufficient notice of such filing to the Plaintiff or his Attorney, no rule or order for the payment of such weekly allowance shall be made, or if previously made, no order for his discharge for non-payment thereof shall be made. 19 V. c. 43, s. 296.

Filing interrogatories to debtor.

4. If such debtor has obtained an order for payment of the weekly allowance, the Plaintiff may at any time file and serve such interrogatories, and the Court from which the process issued, or a Judge, on application of the Plaintiff, may stay further payment until the debtor has sworn to and filed his answers, and has given to the Plaintiff or his Attorney four clear days' notice thereof. 19 V. c. 43, s. 297.

Defendant in custody on several writs only entitled to one allowance, &c.

5. In case such debtor be a prisoner in close custody in several suits or matters, he must make all the Plaintiffs, in such suits or matters, parties to his application for the weekly allowance, and he shall only be entitled to one weekly sum of two dollars, although in custody in several suits and matters; and in any such case, if the weekly allowance be unpaid, the debtor shall have the same right as when in custody in one suit only, to be discharged from custody in all the suits or matters named in the order for payment, and the Plaintiffs named in such order must all be made parties on any application for the debtor's discharge on account of non-payment, and all such Plaintiffs must join in administering interrogatories to the Defendant, as if they were the Plaintiffs in one suit, and such Plaintiffs

shall regulate among themselves the apportionment of the weekly allowance and the arrangement for payment thereof. 19 V. c. 43, s. 298.

6. The Plaintiff shall be entitled to recover from his debtor all sums paid to him for weekly allowance while a prisoner on *mesne* Process, and upon proof of the amount of such payment before the proper taxing Officer, such sums shall be allowed as disbursements in the suit and be taxed as part of the costs thereof. 19 V. c. 43, s. 299.

Allowance may be recovered from debtor as costs.

7. In case any debtor, according to the intent and meaning of this Act, who is or may be confined in close custody in execution at the time of or after the passing of this Act, gives to the party at whose suit he is a prisoner, or to his Attorney, a notice in writing that he will, after the expiration of ten days from the day of the service of such notice, apply to be discharged from custody, the Plaintiff, at whose suit he is confined, may file interrogatories for the purpose of discovering any property or effects which such debtor may be possessed of or entitled to, or which may be in the possession or under the control of some other person for the use or benefit of such debtor, or which such debtor, having been in possession of, may have fraudulently disposed of to injure his creditor, and touching such debtor's estate and effects, and the circumstances under which he contracted the debt or incurred the liability which was the subject of the action in which Judgment has been rendered against him, and as to the means and expectations such debtor then had, and as to the property and means he still hath, and as to the disposal he may have made of any of his property, and may serve a copy of such interrogatories on such debtor; or the Plaintiff, at his option, may cause such debtor to be examined *vivâ voce* upon oath before the Judge of the County Court in the County in which such debtor is confined, or before some one to be appointed in that behalf by such County Judge, upon or touching all or any of the matters aforesaid; and such County Judge may issue an order to the Sheriff or Gaoler having the custody of such debtor, to bring such debtor before him or before some person to be named in such order, for the purpose of being so examined, and such Sheriff or Gaoler shall take such debtor before such Judge or person appointed as aforesaid, for examination under the authority of this Act, in the same manner as if such Sheriff or Gaoler were acting in obedience to a Writ of *Habeas Corpus ad Testificandum*. 22 V. c. 96, s. 11.

A debtor in custody in execution, may apply to be discharged; and after what notice, &c.

Examination of such debtor as to his property, &c., by interrogatories.

Or *vivâ voce* before county judge.

Debtor to be taken before the judge upon his order.

8. After the expiration of ten days from the day of the service of a notice by a debtor of his intention to apply for his discharge from custody under the next preceding section, and upon proof of such notice, and upon such debtor's making oath that he is not worth twenty dollars exclusive of

Application of such debtor for discharge on his having complied with certain requirements,

and making a certain affidavit. his necessary wearing apparel, the bed and bedding of such debtor or his family, and one stove and cooking utensils of such debtor, and also the tools and implements of his trade not exceeding the value of sixty dollars, and that he hath answered all interrogatories filed by the Plaintiff, and hath given due notice of such answers (or if no interrogatories have been served, that he hath not been served with any interrogatories), and that he has submitted himself to be examined pursuant to the order of the County Judge (or, if such order has not been served, that he has not been served with any such order), such debtor may apply to the Court from which the process on which he is confined issued, or to any Judge having authority to dispose of matters arising in suits in such Courts, for a rule or summons to show cause why he should not be discharged from custody, and upon the return of such rule or summons, and where there are interrogatories if the answers thereto are deemed sufficient by such Court or Judge, or where such examination has taken place if the matter thereof be deemed satisfactory by such Court or Judge, such debtor shall be, by rule or order, discharged from custody, and such discharge shall have the same and no other effect as a discharge for non-payment of the weekly allowance. 22 V. c. 96, s. 12.

Discharge,
and its effect.

Further examination of
debtor may be
ordered.

9. In case the Plaintiff has already filed interrogatories, or caused the debtor to be examined *vivâ voce*, and in case on the return of the rule or summons, further enquiry appears requisite for the ends of Justice, the Court or Judge may allow the Plaintiff a reasonable time to file further interrogatories, or to cause such debtor to be further examined, *vivâ voce*, and may allow a reasonable time for the debtor to answer them or to submit to such further examination, before the rule or summons be finally disposed of.

Discharge
may be on
condition of
assignment
by debtor.

10. The Court or Judge may make it a condition of the debtor's discharge, that he shall first, by an assignment or conveyance which shall be approved by the Court or Judge, assign and convey to the party at whose suit he is in custody, any right or interest which he may have or be presumed to have in and to any property, real or personal, credits and effects, other than the wearing apparel, bed, bedding, stove, cooking utensils, tools and implements of trade before mentioned.

Re-committal
of such debtor
for not more
than 12
months, in
cases of fraud,
seduction,
libel, &c.

11. In case it appears to the Court or Judge that the debt for which such debtor is confined was contracted by any manner of fraud or breach of trust, or under false pretences, or that such debtor wilfully contracted such debt or incurred such liability without having had at the same time a reasonable assurance of being able to pay or discharge the same, or that he is confined by reason of any judgment in an action for breach of promise of marriage, seduction, crimi-

nal conversation, libel or slander, the Court or Judge may order the Applicant to be recommitted to close custody for any period not exceeding twelve months, and to be then discharged. 22 V. c. 96, s. 12.

12. In case any discharge granted under this Act has been unduly or fraudulently obtained by any false allegation of circumstances which, if true, might have entitled the debtor to be discharged by virtue of this Act, such debtor shall, upon the same being made to appear to the satisfaction of such Court or a Judge as aforesaid, be liable to be again taken in execution and remanded to his former custody by rule or order of such Court or Judge; but no sheriff or gaoler shall be liable as for an escape of such debtor in respect of his enlargement during the time he has been at large by means of such his undue discharge as aforesaid. 22 V. c. 96, s. 14.

Debtor unduly obtaining discharge may be retaken in execution.

Saving sheriff, &c.

13. A person arrested under a Writ of *Capias ad Satisfaciendum*, or under a Writ of Attachment, though he be not confined to close custody but has given bail, may apply for and obtain his discharge in the same manner and subject to the same terms and conditions, as nearly as may be, as an execution debtor who is confined to close custody. 22 V. c. 33, s. 8. (1859.)

Person on bail may obtain discharge, &c., as if in close custody.

* * * * *

15. The Common Law Procedure Act shall so far as applicable apply to this Act, and all the powers conferred on the Judges of the Superior Courts by the said Act, shall be and are hereby extended to the making from time to time of all rules and forms of proceeding necessary for giving effect to this Act. 22 V. c. 96, s. 16 (1858.)—22 V. c. 33, s. 18. (1859.)

Power for making rules, forms, &c.

16. None of the foregoing provisions relative to the weekly allowance, or discharge from custody on account of insolvency, shall extend or be applicable to debtors who are at the same time in custody upon any criminal charge. 19 V. c. 43, s. 309.

Debtors in custody on criminal charges excepted.

FRAUDULENT PREFERENCE.

17. In case any person being at the time in insolvent circumstances, or unable to pay his debts in full, or knowing himself to be on the eve of insolvency, voluntary or by collusion with a creditor or creditors, gives a confession of Judgment, *Cognovit Actionem* or Warrant of Attorney to confess judgment with intent, in giving such confession, *Cognovit Actionem* or Warrant of Attorney to confess judgment, to defeat or delay his creditors wholly or in part, or with intent thereby to give one or more of the creditors of

Confessions or warrants to confess judgment given by insolvents to defeat or delay creditors or to give one preference over the other to be void.

such person a preference over his other creditors, or over any one or more of such creditors, every such confession, *Cognovit Actionem* or Warrant of Attorney to confess judgment, shall be deemed and taken to be null and void as against the creditors of the party giving the same, and shall be invalid and ineffectual to support any judgment or Writ of Execution. 22 V. c. 96, s. 18.

Assignments,
transfers, &c.,
made by in-
solvents to
defeat credit-
ors or to give
preference,
shall be void.

18. In case any person being at the time in insolvent circumstances or unable to pay his debts in full, or knowing himself to be on the eve of insolvency, makes or causes to be made any gift, conveyance, assignment or transfer of any of his goods, chattels or effects, or delivers or makes over, or causes to be delivered or made over, any bills, bonds, notes, or other securities or property, with intent to defeat or delay the creditors of such person, or with intent of giving one or more of the creditors of such person a preference over his other creditors, or over any one or more of such creditors, every such gift, conveyance, assignment, transfer or delivery, shall be null and void as against the creditors of such person; but nothing herein contained shall invalidate or make void any deed of assignment made and executed by any debtor for the purpose of paying and satisfying rateably and proportionably and without preference or priority, all the creditors of such debtor their just debts; and nothing herein contained shall invalidate or make void any *bonâ fide* sale of goods in the ordinary course of trade or calling to innocent purchasers. 22 V. c. 96, s. 19.

* * * * *

Short title.

21. This Act may be known and cited as "The Indigent Debtor's Act."

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CHAP. XLVII.

An Act respecting Rivers and Streams.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. Except in the case of round or squared timber, or of trees, masts, staves, deals, boards or other sawed or manufactured lumber or saw logs prepared for transportation to a market, every person and every employer of such person, who cuts and fells any trees into the Grand River, the River Thames, River Nith, River Speed, Otter Creek, the River Credit, the River Otonabee from Sturgeon Lake to Rice Lake; the River Sengog, the River Trent from Rice Lake to the Bay of Quinté, Crow River, the Rivers Gananoque, Rideau, Petite Nation, Tay, Mississippi, Bonnechère, Madawaska and Goodwood in Upper Canada, or upon such parts of the banks thereof as are usually overflowed in the autumn or spring of the year by the rising of the water of the said Rivers or Creek, and who does not lop off the branches of such trees and cut up the trunks thereof into lengths of not more than eighteen feet, before they are allowed to be floated or cast into the said Rivers or Streams shall for every such offence forfeit and pay a penalty not exceeding ten dollars. 3 W. 4, c. 28, s. 1,—2 V. c. 16, ss. 1, 4.

Conditions on which timber may be cut on the banks of rivers and floated thereon.

2. In case any person throws, or in case any owner or occupier of a mill suffers or permits to be thrown, into any River, Rivulet or water-course in Upper Canada, excepting those hereinafter mentioned, any slabs, bark, waste stuff or other refuse of any saw-mill (except saw dust,) or any stumps, roots, shrubs, tan-bark or waste wood, or leached ashes; or in case any person fells, or causes to be felled, in or across any such river, rivulet or water-course, any timber or growing or standing trees, and allows the same to remain in or across such river, rivulet or water-course, he shall incur a penalty not exceeding twenty dollars and not less than twenty cents for each day during which such obstruction remains in, over, or across such river, rivulet or water-course, over and above all damages arising therefrom. 10, 11 V. c. 20, s. 1,—7 V. c. 36, s. 1,—2 V. c. 16, s. 2,—22 V. c. 99, s. 270.

Penalty on persons obstructing rivers and rivulets.

Act not to extend to dams, weirs or trees used as bridges.

3. This Act shall not apply to any dam, weir or bridge erected in or over any such river, rivulet or water-course, or to any thing done *bonâ fide* in or for erecting the same, or to any tree cut down or felled across any such river, rivulet or water-course, for the purpose of being used as a bridge from one side thereof to the other, provided such tree does not impede the flow of water or the passing of rafts. 10, 11 V. c. 20, s. 1.

Rivers where salmon, pickerel, black bass or perch do not abound not included.

4. This Act shall not extend to the River St. Lawrence, nor to the River Ottawa, nor to any River or Rivulet wherein Salmon, Pickerel, Black Bass, or Perch do not abound. 14, 15 V. c. 123.

As to obstructions not wilful.

5. No such obstruction happening without the wilful default of any party, or in the *bonâ fide* exercise of his rights, shall subject him to any fine or forfeiture unless upon default to remove the obstruction after notice and reasonable time afforded for that purpose. 10, 11 V. c. 20, s. 1.

How fines to be recovered.

6. All fines, penalties, forfeitures and damages under this Act, when not together exceeding twenty dollars, may respectively, upon the oath of one credible witness, be recovered with costs, in a summary way in the manner provided by the Act of the Province of Canada relative to malicious injuries to property*, before any one or more of the Justices of the Peace for the County in which the offence has been committed, and unless the conviction be appealed from if the fine or penalty and damages (as the case may be) together with the costs, be not paid at the time stated in the conviction, the convicting Justice or Justices, or one of them, when more than one, shall issue his or their warrant of distress to levy the same out of the goods and chattels of the offender; and in case there be not sufficient goods and chattels found to satisfy the same, and in case the offender does not otherwise satisfy the amount within three days after conviction, then such Justice or Justices (*as the case may be*) shall by warrant under hand and seal commit the offender to the common gaol of the County in which he has been convicted for the term of ten days, in case the conviction be under the first section of this Act, or thirty days in case the conviction be under the second section of this Act, unless the fine, penalty or forfeiture and damages (*as the case may be*), and costs, be sooner paid. 3 W. 4, c. 28, s. 2,—10, 11 V. c. 20, s. 1,—*See* 4, 5 V. c. 26, s. 30,—7 V. c. 36, ss. 1, 2, 4.

Party aggrieved may appeal.

7. Any party aggrieved by any conviction or decision under this Act, may appeal in the manner and under the

*Reference should have been made to the Act respecting the duties of Justices of the Peace out of Sessions in relation to Summary Convictions and Orders which virtually superseded 4, 5 V. c. 26, s. 30.

conditions and provisions of the Act of the Province of Canada respecting appeals in cases of summary conviction. 7 V. c. 36, s. 2.

8. Of pecuniary penalties levied under this Act, one third shall go to the informer, and the other two-thirds shall be paid to the Treasurer of the Municipality in which the offence was committed, and shall be expended in improving the public highways therein. 3 W. 4, c. 28, s. 3,—
2 V. c. 16, s. 3.

Appropriation of penalties.

9. In case of damages to private property arising out of a violation of this Act, such damages may, at the request of the party aggrieved, be assessed by the convicting Justice or Justices and included in the conviction, when such damages, together with the fine or penalty imposed, do not together exceed twenty dollars; and in case damages be assessed, the same shall be paid to the party aggrieved, except in cases where he has been examined in proof of the offence, in which case the same shall be applied to the improvement of the public highways in the Municipalities as above provided. 7 V. c. 36, s. 3.

Assessed damages, how to be applied.

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CHAP. XLVIII.

An Act respecting Mills and Mill-Dams.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

TOLLS.

No greater proportion to be taken for grinding and bolting grain than one-twelfth.

1. No owner or occupier of a Mill, nor any person employed by him, shall demand or take as toll a greater proportion of any grain brought to him to be ground and bolted than one twelfth part thereof, for grinding and bolting the same under a penalty of forty dollars for every such offence ; one moiety thereof to be paid to Her Majesty, for the public uses of the Province, and the other moiety to any person who may sue for the same in any Court of Record. 32 G. 3, c. 7, ss. 1, 2.

BAGS TO BE MARKED.

Bags must be marked.

2. No owner or occupier of a Mill shall be bound to receive or be chargeable with the loss of any bag of grain or flour, unless such bag be marked with the initial letters of the Christian and Surname of the owner of the grain, or with some mark distinguishing the bag, which mark of distinction shall be previously communicated and made known to the said owner or occupier of the Mill, or his servant usually attending the same. 32 G. 3, c. 7, s. 3.

MILL-DAMS.

Owners or occupiers of mills to construct aprons to their dams:

3. Subject to the provisions of the "Fishery Act," of the Province of Canada, in case a Mill-dam be legally erected on any stream, down which stream lumber is usually brought, or in which stream salmon or pickerel abound, the owner or occupier of such Dam shall construct and maintain a good and sufficient apron thereto, not less than eighteen feet wide by an inclined plane of twenty-four feet eight inches to a perpendicular of six feet, and so in proportion to the height where the width of the stream will admit of it ; and in case such stream or dam be less than fifteen feet wide, the whole Dam shall be aproned in like manner with the same inclined plane ; and every such owner or occupant

who neglects to construct or maintain such apron shall, for such offence, forfeit and pay yearly the sum of one hundred dollars, one moiety thereof to Her Majesty for the public uses of the Province, and the other moiety to any person who may sue for the same in any Court of Record. 9 G. 4, c. 4, ss. 1, 2,—22 V. c. 86, s. 27.

Penalty and its appropriation.

MILL-DAMS, CONSTRUCTION OF, AND THE PASSAGE OF TIMBER, &c.

4. Every owner or occupier of a Mill-dam at which an apron or slide is required to be constructed as aforesaid, shall, if necessary, alter, or if not already built, shall construct such apron or slide so as to afford depth of water sufficient to admit of the passage over such apron or slide of such saw-logs, lumber and timber as are usually floated down the streams or rivers whereon such Dams are erected; but any owner or occupier of any such Dam may construct a waste-gate or put up brackets and slash-boards in, upon and across the apron, for the purpose of preventing any unnecessary waste of water therefrom, and may keep the same closed when no person is ready and requires to pass or float any craft, lumber or saw-logs over such apron or slide. 12 V. c. 87, s. 1.

Apron or slide to admit passing of logs, &c.

Waste-gates, slash-boards.

5. The owner or occupier of any such Dam shall not be bound to remove the brackets or slash-boards across the apron thereof until the raft, craft, lumber or saw-logs, required to be passed, are ready to pass and have for that purpose gained the main channel of the stream. 12 V. c. 87, s. 1.

Owners not obliged to remove brackets, until, &c.

ON SMALL STREAMS.

6. No person shall be required to build such aprons or slides as mentioned in the third and fourth sections on small streams, unless required for the purposes of rafting or floating down lumber and saw-logs as aforesaid. 12 V. c. 87, s. 1.

When aprons and slides mentioned in sects. 3 and 4 not required in small streams.

PENALTIES.

7. Every owner or occupier of any Dam mentioned in the fourth section of this Act who (if not already made and constructed), neglects or refuses to make and construct and keep in repair an apron of the description therein mentioned shall pay a penalty of two dollars per day for every day of such neglect, and such penalty shall be recoverable before any two Justices of the Peace for the County in which the offence has been committed, on the oath of two credible witnesses, and if not paid, shall be levied by distress and sale of the goods and chattels of the offender, by a warrant under the hand and seal of such Justices, or one of

Penalty on owner of dam refusing to comply with the requirements of this Act.

How enforced.

them, and shall be paid to the Treasurer of the Municipal Corporation having jurisdiction in the locality where such Dam is erected, for the general uses of the Municipality. 12 V. c. 87, s. 3.

MILL-DAMS IN SPECIFIED PLACES.

1.—IN THE COUNTY OF HURON.

Dams and
weirs in the
County of
Huron.

8. Subject to the provisions of the "Fishery Act," the owner or occupier of every Dam or Weir erected on any river or stream in any of the Townships of Williams, McGillivray, Stephen, Hay, Stanley, Goderich, Colborne, Hullet, McKillop, Tuckersmith, Hibbert, Logan, Fullarton, Usborne, Biddulph, Blanchard, Downie, including the Gore of Ellice, North-East Hope and South-East Hope, or any other tracts of land which on the twenty-ninth day of March, one thousand eight hundred and forty-five, constituted the then District of Huron, shall, if the same has not been already done, construct and maintain, and, if constructed, shall maintain and keep in repair, a good and sufficient apron to such Dam or Weir, at least twenty-eight feet wide (if the Dam or Weir be of greater width, and if not, then of the same width as the Dam or Weir), and at least eight feet in length for every foot rise of such Dam or Weir, under a penalty of one dollar for each day during which the requirements of this section are not complied with; and such penalty shall be recoverable before any two Justices of the Peace for the County in which the offence has been committed, on the oath of one credible witness, and if not paid, may be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of such Justices or either of them; one moiety of which penalty shall belong to Her Majesty for the public uses of the Province, and the other moiety to the prosecutor. 4 W. 4, c. 55, s. 1,—8 V. c. 66,—1 V. c. 26.

2.—ON THE RIVER MOIRA.

On the River
Moira.

9. Subject to the provisions of the "Fishery Act," the owner or occupier of any Dam on the River Moira or its tributaries in the County of Hastings, on which lumber is floated to market, shall construct and maintain, and if constructed, shall maintain and keep in repair a good and sufficient apron to such Dam, at least thirty-two feet in width (if the Dam be of that or of greater width, and if not, then of the width of the Dam), and at least five feet in length for every foot rise of such Dam; and the height of the Dam at the place where the apron is constructed, shall be at least two feet lower than the top of the said Dam at any other place (unless it occupy the whole width thereof as aforesaid); but if the rise of the Dam be less than

four feet, the height of the Dam at the place where the apron is constructed shall not exceed one-half its height at any other place. 11 V. c. 10, s. 2.

10. Every such Apron shall be constructed on the main channel of the stream, and its highest part shall be one foot below the level of the Dam, at the place where it joins the same, under a penalty of twenty-five cents for each day the requirements of this and the next preceding section are not complied with, 11 V. c. 10, s. 2. Penalty for contravention.

11. The said penalty, on the complaint of any person engaged in the lumber trade upon the said River or any tributary thereof, may be recovered before any two Justices of the Peace for the County in which the offence has been committed, upon the oath of one credible witness other than the informer, one half of which penalty shall belong to Her Majesty for the public uses of the Province, and the other moiety to the prosecutor; and if upon conviction such penalty be not forthwith paid, it shall by warrant under the hand and seal of such Justices, or of one of them, be levied by distress and sale of the goods of the offender. 11 V. c. 10, s. 2. How recovered and enforced.

12. The ninth section of this Act shall not oblige the owner or occupier of any Dam on the River Moira to alter the apron thereof, if constructed before the twenty-third day of March, one thousand eight hundred and forty-eight, until the renewal of such apron. 11 V. c. 10, s. 2. Owner not obliged to alter the apron if constructed before a certain period until renewed.

3.—ON THE RIVER OTONABEE.

13. No apron to any Mill-dam on the River Otonabee shall be less than thirty-two feet wide by an inclined plane of five feet to a perpendicular of one foot, and so in proportion to the height of the Dam; and side pieces of at least one foot in height shall be fixed on the outside of every such apron, to confine the water and prevent the timber from falling off at the sides. 12 V. c. 87, s. 2. Special provisions with regard to the River Otonabee.

AS TO PENALTIES WHEN DAMS INJURED BY FLOODS.

14. In case any apron be carried away, destroyed or damaged by flood or otherwise, the owner or occupier of the Dam to which the same was attached shall not be liable to any such penalty as aforesaid if such apron be repaired or re-constructed in conformity to this Act, as soon as the state of the stream safely permits. 12 V. c. 87, s. 4,—11 V. c. 10, s. 2. If aprons injured by floods, &c., penalties suspended for a reasonable time.

TIMBER, ETC., MAY BE FLOATED DOWN STREAMS AT CERTAIN SEASONS.

15. All persons may float saw-logs and other timber, rafts and crafts down all streams in Upper Canada during the All persons may float saw-logs, &c., down streams.

spring, summer and autumn freshets, and no person shall, by felling trees or placing any other obstruction in or across any such stream, prevent the passage thereof. 12 V. c. 87, s. 5.

Persons using streams not to injure dams, &c.

16. In case there be a convenient apron, slide, gate, lock or opening in any such Dam or other structure made for the passage of saw-logs and other timber, rafts and crafts authorized to be floated down such stream as aforesaid, no person using any such stream in manner and for the purposes aforesaid, shall alter, injure or destroy any such Dam or other useful erection in or upon the bed of or across the stream, or do any unnecessary damage thereto or on the banks thereof. 12 V. c. 87, s. 5.

PROTECTION IN CERTAIN CASES OF MILLS OVERFLOWING ADJACENT LANDS.

When grantee of Crown not to recover damages for overflow of his lands.

17. In case, in any action brought against the proprietor or occupier of a Mill, for the overflowing of or injury to land, caused by the erection or continuation of a Dam for the purposes of such Mill, it appears that the overflowing or other injury was caused by the erection or continuation of a Dam which was built before the purchase of such land by the Grantee of the Crown and before the grant thereof to him, and that such purchaser obtained a reduction in the price of such land, or was otherwise indemnified in consequence of its being so overflowed or otherwise injured, then the Jury on the trial of such action may take such facts into their consideration, and, if they think it just and equitable, may, in consequence thereof, find a verdict for the Defendant. 13, 14 V. c. 75, s. 1.

Defendant may plead general issue, &c.

18. In any such action the Defendant may plead the general issue, and under such plea, on entering a note of this Act in the margin thereof, may avail himself of this Act and of the matters of defence herein given. 13, 14 V. c. 75, s. 2.

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CHAP. L.

An Act respecting Joint Stock Companies for the construction of Piers, Wharves, Dry Docks and Harbours.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. Any number of persons, not less than five, may form themselves into a Company for the purpose of constructing a Pier or Wharf, or for dredging or deepening or making a Harbour, or for the erection of a Dry Dock and Marine Railway connected therewith. 16 V. c. 124, s. 1.

How companies may be formed.

2. When a Company has been formed under this Act, and a sufficient amount of Stock has been taken, adequate in their judgment to complete the work, the Stockholders shall execute an Instrument according to the form following:—

Company to register articles of association with registrar of county.

Be it remembered, that on this _____ day of _____ in the year of our Lord one thousand eight hundred and _____, we, the undersigned Stockholders, met at _____, in the _____ County of _____, in the Province of _____, and resolved to form ourselves into a Company, to be called (*insert the name intended to be taken by the Company*), according to the provisions of a certain Act of the Parliament of this Province, intituled, *An Act &c. (insert the title of this Act)*, for the purpose of constructing a Pier (or Piers), Wharf (or Wharves), and making (or dredging) a Harbour, (or constructing a Dry Dock) at (*name of the place*). And we do hereby declare that the capital Stock of the said Company shall be _____ dollars, to be divided into _____ Shares, at the price or sum of twenty dollars each. And we, the undersigned Stockholders, do hereby agree to take and accept the number of Shares set by us opposite to our respective signatures; and we do hereby agree to pay the calls thereon, according to the provisions of the said in part recited Act, and of the Rules and Regulations, Resolutions and By-laws of the said Company to be made or passed in that behalf; and we do hereby nominate

(the names to be here inserted) to be the first Directors of the said Company.

Name.	Number of Shares.	Amount.

And the said Stockholders shall register such Instrument with the Registrar of the County in which the work is situated. 16 V. c. 124, s. 2.

Company to be a corporation on certain requirements being complied with.

3. When the requirements contained in the preceding section have been complied with, the Company shall thenceforth become and be a chartered and incorporated Company, by the name designated in the Instrument registered; and by such name, they and their successors may acquire any lands, tenements and hereditaments useful and necessary for the purpose of the Corporation, and may, in their discretion, sell and convey the same. 16 V. c. 124, s. 3.

Consent of municipality to be obtained.

4. Before any such Company proceeds with their work, they shall obtain the consent of the Municipality within which the work is proposed to be made, and such Municipality may fix the limit and boundary of a proposed Harbour. 16 V. c. 124, s. 1.

Company not to take private or Crown property, without consent: nor interfere with companies previously chartered.

5. No Company so formed shall take any private property without the consent of the owner, or take or interfere with any property belonging to the Crown without the approval of the Governor in Council, or obstruct any Harbour in use, or interfere with any Company chartered or any Board of Commissioners incorporated for the construction of a Harbour when this Act takes effect. 16 V. c. 124, s. 1.

Affairs to be managed by five directors.

6. The affairs, stock, property and concerns of every such Company shall, for the first year, be managed by five Directors, to be named in the Instrument registered, and thereafter to be annually elected by the Stockholders, on the second Monday of December in each year, according to the provisions of a By-law to be passed by the Directors for that purpose. 16 V. c. 124, s. 4.

When, by whom and how directors elected.

Requirements of by-law.

7. Such By-law shall regulate:—

1. The manner of voting;
2. The place and hour of meeting for the election;
3. The qualification of voters and of Candidates for the Direction; and
4. Any other matters, except the day of election, which the Directors deem necessary to carry out the foregoing provisions. 16 V. c. 124, s. 4.

8. Such By-law shall be published for three successive weeks in the newspaper, or one of the newspapers, published nearest the place where the Directors of the Company usually meet for conducting the business of the Company. By-law, how published, &c.

9. The Directors may alter, change or amend such By-law, whenever they see proper, but they shall always publish the amended By-Law in the manner above provided. Directors may amend by-law.

10. A majority of the Directors shall be a *quorum* for the transaction of business. 16 V. c. 124, s. 4. Majority of directors to be a quorum.

11. If the annual Election of Directors for any cause do not take place at the time appointed, the Company shall not thereby be dissolved, but the Directors for the time being shall, in that case, continue to serve until another election of Directors has been held, and such other election shall, in such case, be held within one month thereafter, at the time provided by a By-law to be passed by the Directors of the Company for that purpose. 16 V. c. 124, s. 4. Failure to elect directors not to dissolve company.

12. At any election of Directors, each Stockholder shall be entitled to one vote for every share of Stock he holds or is possessed of in the Company, and upon which such Stockholder is not in arrear for or upon any call in respect thereof. 18 V. c. 22, s. 1. Stockholder not in arrear entitled to one vote for every share held by him.

13. Any Stockholder who has paid all calls made shall be eligible as a Director. 16 V. c. 124, s. 4, - 18 V. c. 22, s. 1. And eligible as director.

14. The Directors may elect one of their number to be the President, and may appoint such officers and servants as they deem necessary, and may in their discretion, take security from each of them for the due performance of his duty, and that he will duly account for all moneys coming into his hands to the use of the Company. 16 V. c. 124, s. 7. Directors to elect president and take security from officers.

15. Each share in every Company shall be twenty dollars and shall be regarded as personal property, and shall be transferable upon the books of the Company, in the manner provided by By-law to be made by the Directors in that behalf. 16 V. c. 124, s. 5. Shares to be \$20 each—to be personal property and transferable.

16. Any such Company may sue any Stockholder in the Company for the amount of any call or calls of Stock which such Stockholder neglects to pay after public notice thereof for two weeks in the newspaper, or one of the newspapers, published nearest the place where the Directors of the Company usually meet for the transaction of business, or after a personal demand for payment has been made from such defaulting Stockholder by the Treasurer of the Company. 16 V. c. 124, s. 6. After two weeks' notice of call, stockholders may be sued.

Treasurer's
oath evidence
of demand.

17. The oath of the Treasurer shall be deemed sufficient proof of such notice or of such demand, and a copy thereof shall be filed in the office of the Clerk of the Court where the suit is heard or decided, or where the trial takes place. 16 V. c. 124, s. 6.

Vacancies
amongst
directors, how
filled up, &c.

18. If a vacancy happens amongst the Directors during the current year of their appointment, by death, resignation or permanent residence without the County or Counties in which the work is situated, or by any other cause, the vacancy shall, unless otherwise provided by some By-law or Regulation of the Company, be filled up for the remainder of the year in which it happens by a person to be nominated by a majority of the remaining Directors. 16 V. c. 124, s. 8.

Directors to
make annual
report to
municipality.

19. The Directors of every Company shall annually, in the month of January, report to the Municipality within which the work is situate, under the oath of the Treasurer of the Company—

1. The state and nature of their work ;
2. The amount of all money expended ;
3. The amount of their Capital Stock, and how much is paid in ;
4. The amount of dividends paid and the amount expended for repairs ; and
5. The amount of debts due by the Company. 16 V. c. 124, s. 13.

Company to
keep books of
account, &c.

20. Every Company shall keep regular books of account, in which shall be entered a correct statement of the assets, receipts and disbursements of the Company, and such books shall be at all times open for the inspection of any person for that purpose appointed by the Municipality. 16 V. c. 124, s. 13.

Directors may
increase
capital stock.

21. If the Directors of any Company find the Stock already subscribed insufficient to finish the contemplated work, they may increase the Capital Stock of the Company. 16 V. c. 124, s. 14.

President and
directors to
fix tolls, &c.

22. The President and Directors of the Company shall, subject to the approval of the Governor, fix and regulate, from time to time, the tolls, rates, dues or wharfage to be received from all vessels entering their Harbour or lying at their Pier or Wharf, and for loading and unloading all goods, wares or merchandize in such Harbour, as to them seems meet ; but such tolls, rates, dues or wharfage shall not in any case exceed the amount herein specified. 16 V. c. 124, s. 9.

Company
may detain
vessels and

23. Any such Company or their agent, officers or servants, may detain any goods, wares or merchandize, or any

vessel, boat or craft, until the legal tolls or charges thereon have been paid, and may sell any vessel or boat for the charges for repairs thereof when such charges have remained unpaid for the space of thirty days, and in cases where the charges for wharfage or storage dues on goods, wares or merchandize have remained unpaid for the space of one year, the Company, their agents, officers or servants, after giving ten days' notice of sale, may, by public auction, sell such goods, wares or merchandize, or such part thereof as may be necessary to pay such dues, and shall return the overplus, if any, to the owner or owners thereof. 16 V. c. 124, s. 10.

goods, sell the same to pay tolls and other dues.

24. Any Municipal Corporation having jurisdiction in the locality in which any such work is to be constructed, may subscribe for, obtain, hold, or depart with, and transfer Stock in the Company, and may from time to time direct the Mayor, Reeve, Warden or other Chief Officer of the Municipality, to subscribe for such Stock in the name of the Municipality, and to act for the Municipality in all matters relative to such Stock and the exercise of the rights of the Municipality as a Stockholder; and such Chief Officer shall, whether otherwise qualified or not, be deemed a Stockholder in the Company, and may vote and act as such, subject to the rules and orders in relation to his authority, which may be made in that behalf by the Municipal Council, but voting according to his discretion in cases not provided for by such Council. 16 V. c. 124, s. 11.

Municipal corporations may hold stock in company.

25. Any Municipality so taking Stock may pay for the same out of any moneys belonging to the Municipality, and not specially appropriated to any other purpose, and may apply the moneys arising from the dividends or profits on the stock or from the sale thereof, to any purpose to which unappropriated moneys belonging to the Municipality may lawfully be applied. 16 V. c. 124, s. 11.

Municipality may pay for stock out of unappropriated moneys of municipality.

26. Any Company may sell to any Municipality representing the interest of the locality in which the work is situate, and any such Municipality may purchase the Stock of such Company at the value agreed on between them, and such Municipality shall hold the same for the use and benefit of the locality; and shall, in all respects thereafter, stand in the place of the Company, and shall possess all such powers and authority as the Company had theretofore possessed and exercised. 16 V. c. 124, s. 12.

Municipalities may purchase stock.

27. Any Municipality desirous of purchasing any such work, may borrow money or raise the means of paying therefor, by By-law to be passed under the provisions of the Act respecting the *Consolidated Municipal Loan Fund*. 16 V. c. 124, s. 12.

Municipality may borrow money to purchase work under Municipal Loan Fund Act.

Company
may borrow
money on
security of
work.

28. Any such Company may borrow money on the security of such work, not exceeding one half the value thereof.
16 V. c. 124, s. 15.

Sale of works
to pass the
rights of the
company to
the purchaser.

29. In case any Pier or Wharf constructed by any Joint Stock Company incorporated under the Laws of Upper Canada has been sold or be sold after this Act takes effect, either by such Joint Stock Company or under some power granted by them, or under legal process against such Company, the sale or sales shall, in all cases, be deemed to have passed and to pass such Piers or Wharves to the purchaser or purchasers thereof, with all the rights, privileges and appurtenances, and subject to all the duties and obligations which the Law gave or imposed with reference to such Pier or Wharf, whilst the same continued the property of the Joint Stock Company which had constructed the same.
22 V. c. 43, s. 1. (1859.)

Company
may demand
tolls, when,
and amount,
&c.

30. So soon as any such Pier, Wharf or Harbour is so far completed as to be capable of receiving and sheltering vessels, and of safely loading and unloading the same, the Company may demand and take as toll or a wharfage to and for their own use and benefit, on all goods, wares and merchandize shipped on board or landed out of any vessel, boat or other craft from or upon any such Pier or Wharf within the bounds of every such harbour, not exceeding the following, that is to say:—

	s. d.	\$ cts.
Pot or Pearl Ashes.....per barrel	0 4	or 0 06 $\frac{2}{3}$
Pork, Whiskey, Beef, Salt, Lard or Butter “	0 3	0 05
Flour..... “	0 2	0 03 $\frac{1}{2}$
Lard or Butter.....per firkin or keg	0 1	0 01 $\frac{2}{3}$
Grain of all kinds.....per bushel	0 1	0 01 $\frac{2}{3}$
Horned Cattle or Horses.....each	0 4	0 06 $\frac{2}{3}$
Calves, Sheep or Swine..... “	0 1	0 01 $\frac{2}{3}$
Merchandize.....per ton	3 0	0 60
Sawed Lumber, per 1,000 feet board measure	1 3	0 25
Square or Round Timber per 100 cubic feet	0 9	0 15
Saw-logs.....	0 1 $\frac{1}{2}$	0 02 $\frac{1}{2}$
Pipe Staves.....per M,	2 0	0 40
West India Pipe Staves..... “	0 6	0 10
Unenumerated Articles.....per ton	2 0	0 40
Boats of 12 tons or under.....each	1 0	0 20
“ over 12 tons and not over 50.....	2 0	0 40
“ over 50 tons.....	3 0	0 60

16 V. c. 124, s. 16.

Municipality,
after 21 years,
may purchase
the stock of
company.

31. Any Municipal Council representing the interests of the locality in which the work is situate, may, after twenty-one years from the time of such work being so far completed as that tolls were and have been collected thereon, purchase

the Stock of such Company at the current value thereof at the time of purchase, and shall hold the same for the use and benefit of such locality; and such Municipality shall thenceforth stand in the place of the Company, and the Council thereof shall possess all such powers and authority as the Company had theretofore possessed and exercised. 16 V. c. 124, s. 17.

32. Notwithstanding the privileges conferred by this Act. Legislature may alter and amend this Act the Legislature may, at any time hereafter, in their discretion, make any such additions to this Act, or such alterations of any of its provisions, as they think proper, for affording just protection to the public, or to any person or persons, body corporate or politic, in respect to their estate or property, or right or interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any right, public or private, that may be affected by any of the powers given to any such corporation. 16 V. c. 124, s. 18.

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CHAP. LIII.

An Act respecting Building Societies.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

Societies, how
incorporated.

1. In case any twenty or more persons, in Upper Canada, agree to constitute themselves a Building Society, and execute, under their respective hands and seals, a declaration to that effect, and deposit the same with the Clerk of the Peace in the County in which they reside (who for receiving such deposit shall be entitled to a fee of fifty cents) such persons, and such other persons as afterwards become members of the Society, and their several and respective executors, administrators and assigns, shall be a corporation, body corporate and politic, as a Building Society, by the name and style mentioned in such declaration, for raising by monthly or other periodical subscriptions of the several members of the Society, in shares not exceeding the value of four hundred dollars for each share (and in subscriptions not exceeding four dollars per month for each share), a stock or fund to enable each member to receive out of the funds of the Society the amount or value of his shares therein, for the purpose of erecting or purchasing one or more dwelling house or houses, or other freehold or leasehold estate, or for any other purpose whatsoever; and the amount or value of such shares shall be secured to the Society by mortgage or otherwise on any real estate belonging to the member at the time of his borrowing money from the Society, or on any other real estate acquired by such member, until the amount or value of his shares with the interest thereon have been fully paid, together with all fines or liabilities incurred in respect thereof. 9 V. c. 90, s. 1,—13, 14 V. c. 79, s. 4.

Powers of
society.

Members of
society may
make rules,
&c., impose
fines, &c.

2. The several members of the Society may from time to time assemble together, and make such proper rules for the government of the same as the majority of members so assembled deem meet, so as such rules are not repugnant to the provisions of this Act, or any other law in force in Upper Canada; and they may impose and inflict such reasonable fines, penalties and forfeitures upon the several members of the Society infringing such rules as the majority

of the members think fit, and to be respectively paid to such uses, for the benefit of the Society, as the Society by such rules direct; and they may also from time amend or rescind such rules, and make new rules in lieu thereof, under such restrictions as are in this Act contained.

3. Except in the case of the withdrawal of a member, according to the rules of the Society then in force, no member shall receive or be entitled to receive from the funds of the Society any interest or dividend by way of annual or other periodical profit upon any share in the Society until the amount or value of his share has been realized.

Except in cases of withdrawal, members not to receive profits on share, till value of same realized.

4. Every such Society may, besides interest, receive from any member a *bonus* on any share, for the privilege of receiving the same in advance prior to the same being realized, without becoming thereby liable to any forfeitures or penalties imposed by any Laws in force in Upper Canada relating to Usury. 9 V. c. 90, s. 2,—22 V. c. 85, s. 6.

Society may receive *bonus* in addition to interest.

5. Every such Society shall, from time to time, elect and appoint any number of the members of the Society to be a Board of Directors, the number and qualification thereof to be declared in the rules of the Society, and may delegate to such Directors all or any of the powers given by this Act to be executed. 9 V. c. 90, s. 3.

Society from time to time to elect directors.

6. The powers of the Directors shall be declared by the rules of the Society, and they shall continue to act during the time appointed by such rules. 9 V. c. 90, s. 3.

Powers of directors to be declared by rules.

7. In case Directors are appointed for any particular purpose, the powers delegated to them shall be reduced to writing and entered in a book by the Secretary or Clerk of the Society. 9 V. c. 90, s. 3.

Powers of directors in certain cases to be recorded in books of society.

8. The Directors shall choose a President and Vice-President, and they shall in all things delegated to them act for and in the name of such Society, and the concurrence of a majority of the Directors present at any meeting shall at all times be necessary in any act of the Board. 9 V. c. 90, s. 3.

Concurrence of majority of directors necessary.

9. All acts and orders of such Directors, under the powers delegated to them, shall have the like force and effect as the acts and orders of the Society at a General Meeting. 9 V. c. 90, s. 3.

Acts of directors to be binding.

10. The transactions of the Directors shall be entered in a book belonging to the Society, and shall at all times be subject to the review, allowance and disallowance of the Society, in such manner and form as the Society by their general rules direct and appoint. 9 V. c. 90, s. 3.

Proceedings of directors to be entered in books of society.

Society by rule to declare objects of society and declare how moneys to be applied.

11. Every such Society shall, in or by one or more of their Rules, declare the objects for which the Society is intended to be established, and thereby direct the purposes to which the money from time to time subscribed to, received by and belonging to the Society, shall be appropriated, and in what shares or proportions and under what circumstances any member of the Society, or other person, may become entitled to the same, or any part thereof. 9 V. c. 90, s. 4.

Moneys not to be misapplied under penalties.

12. All such Rules shall be complied with and enforced and the moneys so subscribed to, received by or belonging to the society, shall not be diverted or misapplied either by the Treasurer or Directors or any other officer or member of the Society entrusted therewith, under such penalty or forfeiture as the Society by any Rule inflicts for the offence. 9 V. c. 90, s. 4.

Rules to be recorded in a book.

13. The Rules for the management of every such Society shall be recorded in a book to be kept for that purpose, and such book shall be open at all reasonable times for the inspection of the members. 9 V. c. 90, s. 5.

Entry of rules in book notice to members.

14. The Rules so recorded shall be binding on the several members and officers of the Society, and the several contributors thereto and their representatives, and they shall be deemed to have full notice thereof by such record. 9 V. c. 90 s. 6.

Examined copy of rules entered in book to be evidence.

15. The entry of the rules in the books of the Society, or a true copy of the same, examined with the original and proved to be a true copy, shall be received as evidence thereof. 9 V. c. 90, s. 6.

Rules not to be removed by *certiorari*.

16. Such Rules shall not by *certiorari*, or other legal Process, be removed into any of Her Majesty's Courts of Record. 9 V. c. 90, s. 6.

Rules entered in book not to be altered except at a general meeting.

17. No Rule so recorded as aforesaid shall be altered or rescinded, unless at a General Meeting of the Members, convened by public notice written or printed, signed by the Secretary or President of the Society in pursuance of a requisition for that purpose made by not less than fifteen of the Members, stating the objects for which the meeting is called, and addressed to the President and Directors; and each member of the Society shall within fifteen days after such requisition, be notified, through the Post Office, of the proposed alterations; and such General Meeting shall consist of not less than one third of the shareholders, three-fourths of whom must concur in the proposed alterations or repeal. 9 V. c. 90, s. 7.

Rules to specify time and place for

18. The Rules of the Society shall specify the place or places at which it is intended that the Society shall hold its

meetings, and shall contain provisions with respect to the powers and duties of the members at large, and of the officers appointed for the management of its affairs. 9 V. c. 90, s. 8.

19. The Directors shall, from time to time, at any of their usual meetings, appoint such persons as they think proper, to be officers of the Society, grant such salaries and emoluments as they deem fit, and pay the necessary expenses attending the management of the Society; and shall from time to time when necessary elect such persons as may be necessary for the purposes of the Society, for the time and for the purpose expressed in the Rules of the Society, and may from time to time discharge such persons, and appoint others in the room of those who vacate, die or are discharged. 9 V. c. 90, s. 9.

* * * *

21. Every such Society may take and hold any real estate, or securities thereon, *bonâ fide* mortgaged or assigned to it, either to secure the payment of the shares subscribed for by its members, or to secure the payment of any loans or advances made by, or debts due to the Society, and may proceed on such mortgages, assignments or other securities for the recovery of the moneys thereby secured, either at law or in equity or otherwise, and generally may pursue the same course, exercise the same powers and take and use the same remedies to enforce the payment of any debt or demand due to the Society as any person or body corporate may by law take or use for a like purpose.

* * * *

23. Every such Society may declare forfeited to the Society the shares of any member who is in default or who neglects to pay the number of instalments or monthly subscriptions fixed by any Stipulation or By-Law, and may expel such member from the Society, and the Secretary shall make a minute of such forfeiture and expulsion in the books of the Society; or instead of such forfeiture and expulsion, the Society may recover the arrears by an action of debt. 13, 14 V. c. 79, s. 3.

24. If the amount in arrear does not exceed forty dollars the action may be brought in the Division Court of the Division wherein the office of the Society is kept. 13, 14 V. c. 79, s. 3.

25. Whenever any such Society has received from a Shareholder an assignment, mortgage or transfer of any real estate to secure the payment of any advances, and con-

taining an authority to such Society to sell the real estate in case of non-payment of any stipulated number of instalments or sum of money, and to apply the proceeds of such sale to the payment of the advances, interest and other charges due to the Society, such stipulations and agreements shall be valid and binding, and the Society may cause the same to be enforced either by foreclosure or by an action or proceeding in either of Her Majesty's Superior Courts of Common Law, in which action the venue shall be laid in the County in which the lands lie, and the action may be brought in the names of the President and Treasurer of the Society, describing them as such, or in the corporate name of the Society. 13, 14 V. c. 79, s. 1.

Representatives of officers of society to deliver over papers and moneys after demand.

26. If any person appointed to an office by the Society, and being entrusted with and having in his possession by virtue of his office, any moneys or effects belonging to the Society, or any deeds or securities relating thereto, dies or becomes bankrupt or insolvent, his legal representative, or other person having a legal right, shall, within fifteen days after demand made by the order of the Directors of the Society, or the major part of them assembled at any meeting thereof, deliver over all things belonging to the Society to such persons as the Directors appoint. 9 V. c. 90, s. 11.

Property of society vested in president and treasurer.

27. All real and personal estate, property and effects, and all titles, securities, instruments and evidences, and all rights and claims of or belonging to the Society, shall be vested in the President and Treasurer and their Successors in office for the time being for the use of the Society and the respective members thereof, according to their respective claims and interests, and shall, for all purposes of bringing or defending actions or suits, civil or criminal, be deemed to be, and shall be stated to be, the property of the President and Treasurer in the proper names of the President and Treasurer for the time being.

President and treasurer may bring and defend suits.

28. The President and Treasurer may bring or defend any action, suit or prosecution, criminal or civil, respecting any property, right or claim aforesaid, and may sue and be sued, plead and be impleaded in their proper names as President and Treasurer of the Society without other description.

Suits not to abate by death or removal from office.

29. No such suit, action or prosecution shall be discontinued or abated by the death or removal from office of the President or Treasurer, but shall continue in their names; and the succeeding President and Treasurer shall have the same rights and liabilities, and shall pay or receive like costs as if the action, suit or prosecution had been commenced or been defended in their names, for the benefit of or to be satisfied out of the funds of the Society. 9 V. c. 90, s. 12.

30. In all suits and prosecutions, the Secretary of the Society shall be a competent witness, notwithstanding he may also be Treasurer of the Society, and his name used in the suit or prosecution as such Treasurer. 9 V. c. 90, s. 13.

Secretary of society a competent witness.

31. The President, Vice-President and Directors of the Society, in their private capacity, shall be exonerated from all responsibility in relation to the liabilities of the Society. 9 V. c. 90, s. 14.

President and directors relieved of responsibility.

32. The rules of the Society shall provide that the Treasurer or other principal Officer thereof shall, once at least in every year, prepare a general statement of the funds and effects of or belonging to the Society, specifying in whose custody or possession such funds or effects are then remaining, together with an account of all sums of money received or expended by or on account of the Society since the publication of the preceding periodical statement. 9 V. c. 90, s. 15.

Rules to provide that secretary shall furnish annual statement of funds.

33. Every such periodical statement shall be attested by two or more members of the Society not being Directors, appointed Auditors for that purpose, and shall be countersigned by the Secretary or Clerk of the Society, and every member shall be entitled to receive from the Society without charge a copy of such periodical statement.

Secretary's statement to be attested by auditors.

34. This Act shall for all purposes extend to aliens, denizens and females; and co-partners and corporate bodies may hold shares in any Society incorporated under the provisions of this Act in the same manner as single individuals; and this Act shall be construed in the most beneficial manner for promoting the ends thereby intended. 13, 14 V. c. 79, s. 4,—9 V. c. 90, s. 16.

Act extends to aliens, females and bodies corporate.

35. The word "Society" in the foregoing sections of this Act shall be understood to include and to mean Building Society and Institution established under the provisions and authority of this Act, or any former Act respecting Building Societies; the word "Rules" to include Rules, Orders, By-laws and Regulations; the words "Real Estate" shall extend and apply to immoveable estate and property generally; and the word "securities" shall extend and apply to privileges, mortgages (equitable as well as legal), and incumbrances upon real and immoveable estate, as well as to other rights and privileges upon personal estate and property. 9 V. c. 90, s. 16.

Interpretation clause.

36. Whereas under the Act passed in the ninth year of Her Majesty's Reign intituled, *An Act to encourage the establishment of certain Societies, commonly called Building Societies, in that part of the Province of Canada formerly constituting Upper Canada*, certain Building Societies have been estab-

Preamble. 9 V., c. 90.

lished called Permanent Building Societies, which have in a great measure superseded those Societies called terminating Building Societies, and are conducted on more certain and equitable principles than the said terminating Building Societies, by enabling persons to become members thereof at any time for investment therein, or to obtain the advance of their shares or share by giving security therefor, and to fix and determine with the said Society the time and amount which such members shall repay such advanced share or shares and obtain the release of the said security, without being liable to the contingency of losses or profits in the business of the said Society; And whereas doubts had arisen as to whether such Permanent Building Societies were within the meaning and intention of the said recited Act; Therefore, any Permanent Building Society established under the said hereinbefore recited Act and the amended Act thereto, or established under this Act, after this Act takes effect, and conducted on the principle hereinbefore mentioned, which has fulfilled and observed or which fulfils and observes all the conditions necessary to be fulfilled and observed for the establishment of a Building Society under the said recited Acts, or under this Act (as the case may be) shall be and the same is hereby declared to be and to have been a Building Society within the meaning and intention of the said recited Acts and of this Act, and to be and to have been entitled to all the powers, benefits and advantages of the said recited Acts and of this Act; and any person or persons who have signed the Rules and Regulations of any such Building Society entered and recorded in a book, as in the fifth section of the said recited Act, passed in the ninth year of Her Majesty's reign and in the thirteenth section of this Act is required, and have subscribed his or their name or names as a shareholder or shareholders for one or more shares, shall, from the time of such signature and subscription, be and be deemed to have been a member or members of such Building Society; and the production of the book containing the rules for the management of such Society, kept as in the fifth section of the said Act and in the thirteenth section of this Act is required, signed by such person and duly witnessed, shall, at all times and for all purposes, be sufficient evidence of membership in such Building Society. 22 V. c. 45, s. 1 (1859.)

Permanent societies having fulfilled certain conditions declared to be within this Act.

And their subscribers to be members.

Evidence of membership.

How by-laws of permanent societies may be passed or amended.

37. Any Permanent Building Society may alter, amend, repeal or create any Regulation, Rule or By-law for the working of the said Society at a public meeting of the members of such Society, convened as is directed by the said seventeenth section of this Act, and at which public meeting one third of the members of the said Society, entitled to vote by the rules of the said Society, and representing not less than two-thirds of the unadvanced Stock of such Society, do, either in writing under their hand or by

a vote at such meeting, concur in such alteration, amendment or repeal of such Regulation, Rule or By-law, or in the creation of any new Rule, Regulation or By-law. 22 V. c. 45, s. 2 (1859.)

* * * * *

39. When any share or shares in any Society have been fully paid up according to the rules of the Society, or have become due and payable to the holder thereof, then and in such case the holder of such share or shares may either withdraw the amount of his share or shares from the said Society according to the rules and regulations thereof, or invest the amount of his said share or shares in the Society and receive therefrom periodically such proportion of the profits made by such Society as may be provided for by a By-law to be passed for the purpose; and the amount of such share or shares so invested shall become fixed and permanent capital or shares in the said Society not withdrawable therefrom, but transferable in the same manner as other shares in the said Society. 22 V. c. 45, s. 4.

Shareholder whose share is paid up, may receive or invest the amount.

40. Such Society may advance to members on the security of investing on unadvanced shares in the said Society, and may receive and take from any person or persons, or bodies corporate, any real or personal security of any nature or kind whatever as collateral security for any advance made to Members of the Society. 22 V. c. 45, s. 5.

Advances on security of investing on unadvanced shares.

41. Any Society may hold absolutely real estate for the purposes of its place of business, not exceeding the annual value of six thousand dollars. 22 V. c. 45, s. 6.

Holding real estate.

* * * * *

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CHAP LXXVIII.

An Act respecting Remedies for and against executors and administrators and respecting the Limitation of certain actions.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

* * * * *

Limitation of time for commencement of particular actions.	7. Actions of debt for rent, upon an indenture of demise, —actions of covenant or debt, upon a bond or other specialty,—actions of debt, or <i>scire facias</i> upon a recognizance, —actions of debt upon an award where the submission is not by specialty, or for an escape, or for money levied on a <i>feri facias</i> ,—and actions for penalties, damages, or sums of money given to the party aggrieved by any Statute, shall be commenced and sued within the time and limitation herein-after expressed, and not after, that is to say:—The said actions of debt for rent upon an indenture of demise or covenant, or of debt upon a bond or other specialty, and actions of debt, or <i>scire facias</i> upon a recognizance, within twenty years after the cause of such actions arose; the said actions by the party aggrieved, within two years after the cause of such actions arose, and the said other actions, within six years after the cause of such actions arose; but nothing herein contained shall extend to any action given by any Statute, where the time for bringing such action is by the Statute specially limited. 7 W. 4, c. 3, s. 3.
Actions of debt on demise, &c.	
Other actions.	

* * * * *

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CHAP. LXXIX.

An Act to prevent Accidents from Machinery.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. The owners of every steam-boat, steam-car, and steam-carriage, and of every mill or building, in which machinery is used, shall erect good and substantial guards round such machinery so as to prevent passengers and other persons on board of, or entering or being in the same, respectively, from coming in contact with the machinery used therein or attached thereto. 1 V. c. 18, s. 1.

Guards, &c., to be erected about machinery of steam-boats, mills, &c., to prevent accidents to passengers and others.

2. The Collector of Customs of every Port in Upper Canada, or his Deputy, shall enter into or upon every steam-boat, steam-car and steam-carriage, arriving at his port or station, and carefully examine whether there are proper guards round the machinery of the same, so as to secure the safety of persons when such machinery is in operation, and if there be not proper guards or if they be not properly and substantially erected, he or his Deputy shall notify the same to the master or person in charge of such steam-boat, steam-car or steam-carriage, and direct him to make such proper guards or to make them in a proper and substantial manner. 1 V. c. 18, s. 2.

Collectors of Customs authorized to examine steam-boats, steam-cars and steam-carriages, and to require the erection of necessary guards.

3. It shall be the duty of every Justice of the Peace in the County or City in which he resides and usually acts as a Justice of the Peace, to enter into or upon all buildings wherein machinery is erected, and to inspect and examine the machinery thereof or attached thereto; and if upon such examination he finds that there are not proper guards erected or that the guards used in and about such machinery are insufficient, such Justice shall notify the same to the owner or occupier of such building, and shall direct the necessary guards to be erected. 1 V. c. 18, s. 3.

Justices of the peace, &c., to enter mills, &c., and to examine, &c.

4. In case upon the inspection of any steam-boat, steam-car or steam-carriage, or of any building wherein or where-to machinery is used or attached, as aforesaid, it appears to the Collector or Justice respectively inspecting the same, that the guards erected or to be erected in compliance with

Collector or justice to deliver certificate of sufficiency of guards, &c.

Certificate to
afford protec-
tion for six
months.

this Act are sufficiently safe and substantial, such Collector or Justice shall deliver to the person in charge of such steam-boat, steam-carriage or car, and to the proprietor or occupier of such building as aforesaid, a certificate to that effect; and if such safeguards are at all times kept in good and sufficient repair, such certificate shall for six months from the date thereof, be a good and sufficient protection to the masters and owners and occupiers of such steam-boat, steam-carriage or car and building respectively, as aforesaid, against any penalty to be incurred under the provisions of this Act. 1 V. c. 18, s. 5.

Penalty in
case of ne-
glect to erect
guards by
owners or
masters, &c.

5. In case the master or person in charge of any steam-boat, steam-car or steam-carriage, or the owner or occupier of any building wherein machinery has been erected, as aforesaid, neglects or refuses to comply with the directions of such Collector or Deputy-Collector, or Justice of the Peace, (as the case may be), and be convicted before one Justice of the Peace, he shall forfeit and pay for every such offence a sum not exceeding four dollars and the costs of conviction; and in default of payment of such sum and costs the offender shall, by a warrant under the hand and seal of such Justice, be sent to the common gaol of the County or City within which the offence was committed, for any period not exceeding thirty days. 1 V. c. 18, s. 4.

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CHAP. CIV.

An Act to prevent the Profanation of the Lord's Day in Upper Canada.

WHEREAS it is expedient to enact a Law against the Profanation of the Lord's Day, commonly called Sunday, which day ought to be duly observed and kept holy: Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. It is not lawful for any Merchant, Tradesman, Artificer, Mechanic, Workman, Labourer or other person whatsoever on the Lord's Day to sell, or publicly shew forth, or expose, or offer for sale, or to purchase any goods, chattels, or other personal property, or any real estate whatsoever, or to do or exercise any worldly labour, business or work of his ordinary calling (conveying Travellers or Her Majesty's Mail, by land or by water, selling Drugs and Medicines, and other works of necessity, and works of charity, only excepted). No sale to take place on Sunday.
8 V. c. 45, s. 1.

2. It is not lawful for any person on that day to hold, convene, or to attend any public political meeting, or to tipple, or to allow or permit tippling in any Inn, Tavern, Grocery, or House of Public Entertainment, or to revel, or publicly exhibit himself in a state of intoxication, or to brawl or use profane language in the public streets or open air, so as to create any riot or disturbance, or annoyance to Her Majesty's peaceable subjects. Political meetings, tippling, &c., prohibited on Sunday.

3. It is not lawful for any person on that day to play at skittles, ball, foot-ball, racket, or any other noisy game, or to gamble with dice or otherwise, or to run races on foot, or on horseback, or in carriages, or in vehicles of any sort. Games and amusements prohibited.
8 V. c. 45, s. 1.

4. Except in defence of his property, from any wolf or other ravenous beast, or a bird of prey, it is not lawful for any person on that day to go out hunting or shooting, or in quest of, or to take, kill or destroy any deer or other game, or any wild animal or any wild fowl or bird, or to use any dog, gun, rifle, or other engine, net or trap, for the above mentioned purpose. Exception. Hunting and shooting.
8 V. c. 45, s. 1.

Fishing.

5. It is not lawful for any person on that day to go out fishing, or to take, kill or destroy any fish, or to use any gun, fishing rod, net or other engine for that purpose. 8 V. c. 45, s. 1.

Bathing.

6. It is not lawful for any person on that day to bathe in any exposed situation in any water within the limits of any incorporated city or town, or within view of any place of Public Worship, or private residence. 8 V. c. 45, s. 1.

Penalty.

7. Any person convicted before a Justice of the Peace of any act hereinbefore declared not to be lawful, upon the oath or affirmation of one or more than one credible witness, or upon view had of the offence by the said Justice himself, shall, for every such offence, be fined in a sum not exceeding forty dollars, nor less than one dollar, together with the costs and charges attending the proceedings and conviction. 8 V. c. 45, s. 3.

Sales and
agreements
made on Sun-
day to be
void.

8. All sales and purchases, and all contracts and agreements for sale or purchase, of any real or personal property whatsoever, made by any person or persons on the Lord's Day shall be utterly null and void. 8 V. c. 45, s. 2.

Justice to
summon ac-
cused party.

9. When any person has been charged upon oath or otherwise, in writing, before any Justice of the Peace, with any offence against this Act, the said Justice shall summon the person so charged to appear before him, at a time and place to be named in such summons, and if such person fails or neglects to appear accordingly, then (upon proof of due service of the summons upon such person, by delivering or leaving a copy thereof at his house, or usual or last place of abode, or by reading the same over to him personally) the said Justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person and bringing him before himself, or some other Justice of the Peace having jurisdiction within the same County or municipality; and the Justice before whom the person charged appears or is brought, shall proceed to hear and determine the case, or the said Justice, on view of the offence may verbally order, or if on the complaint of a third party, then may, in writing, order the offender to be at once committed (although it be on the Lord's Day) to the common gaol of the place, or into other safe custody, there to remain until the morrow, or some other day, according to circumstances until the case be heard and disposed of. 8 V. c. 45, s. 4.

Commitment.

Form of con-
viction.

10. The Justice before whom any person is convicted of any offence against this Act, may cause the conviction to be drawn up in the following form, or in any other form of words to the same effect, as the case may require, that is to say:—8 V. c. 45, s. 5.

Be it remembered that on the _____ day of _____, at _____, in the County of _____, (or at the City of _____, as the case may be,) A.B., of _____, is convicted before me, C.D., one of Her Majesty's Justices of the Peace for the said County (or City, as the case may be,) for that he the said A.B. did (*specify the offence, and the time and place, when and where the same was committed, as the case may be*); and I the said C.D., adjudge the said A.B., for his offence to pay (immediately, or on or before the day of _____), the sum of _____, and also the sum of _____, for costs; and in default of payment of the said sums respectively, to be imprisoned in the common gaol of the said County (or City as the case may be) for the space of _____ months, unless the said sums be sooner paid; and I direct that the said sum of _____ (*the penalty*) shall be paid as follows, that is to say: one moiety thereof to the party charging the offence, and the other moiety to the Treasurer of the County (*naming the one in which the offence was committed, or Chamberlain of the said City, as the case may be.*) to be by him applied according to the provisions of the Act (*insert the title of this Act*).

Given under my hand and seal, the day and the year first above mentioned.

C. D., J. P. [L.S.]

11. A conviction under this Act shall not be quashed for want of form; nor shall any Warrant of Commitment be held void by reason of any defect therein, if it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the commitment. 8 V. c. 45, s. 6.

Conviction and commitment not to be void for want of form.

12. In default of payment of any fine imposed under this Act, together with the costs attending the same, within the period by the Justice of the Peace before whom such conviction takes place, specified for the payment thereof at the time of conviction, such Justice of the Peace (if he deems it expedient so to do) may issue his Warrant directed to any Constable to levy the amount of such fine and costs within a certain time, to be in the said Warrant expressed; and in case no distress sufficient to satisfy the amount be found, he may commit the offender to the common gaol of the County wherein the offence was committed, for any term not exceeding three months, unless the fine and costs be sooner paid. 8 V. c. 45, s. 7.

In default may levy fine.

Commitment.

13. The prosecution for any offence punishable under this Act, must be commenced within one month after the commission of the offence, and not afterwards; and the evidence of any inhabitant of the County or Municipality in which the offence has been committed, shall be admitted and receivable, notwithstanding the fine incurred by the

Limitation of time for prosecution.

Who may be witnesses.

offence may be payable for the benefit of such Municipality ; but the party who makes the charge in writing before the Justice, shall not be admitted as a witness in the case. 8 V. c. 45, s. 8.

Appeal to the
Quarter Ses-
sions.

14. In case a person thinks himself aggrieved by any conviction or decision under this Act, then, in case such person, within six days after such conviction or decision, and ten days at least before the first Court of General Quarter Sessions of the Peace, or in Cities before the first Recorder's Court (if there be a Recorder's Court) to be held not sooner than twelve days next after such conviction or decision, may appeal in the manner provided in and subject to the provisions of the Act respecting Appeals in cases of Summary Conviction. 8 V. c. 45, s. 9.

Justices to
transmit the
conviction to
the Quarter
Sessions.

15. Every Justice of the Peace before whom any person is convicted of any offence against this Act, shall transmit the conviction to the next Court of General Quarter Sessions, or Recorder's Court (as the case may be) to be holden for the County or City wherein the offence was committed, there to be kept by the proper officer among the records of the Court. 8 V. c. 45, s. 10.

Where
actions, &c.,
are to be
tried.

16. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be laid and tried in the County where the fact was committed, and must be commenced within six months after the fact committed, and not afterwards ; and notice in writing, of such action, and of the cause thereof, must be given to the Defendant one month at least before the action ; and in any such action the Defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon. 8 V. c. 45, s. 11.

Defendant
may plead
general issue.

Tender of
amends, &c.

17. No plaintiff shall recover in such action, if tender of sufficient amends be made before such action brought, or if a sufficient sum of money be paid into Court after such action brought, by or on behalf of the Defendant ; and if a verdict passes for the Defendant, or the Plaintiff becomes non-suit, or discontinues any such action after issue joined, or if upon demurrer or otherwise judgment be given against the Plaintiff, the Defendant may recover his full costs, as between Attorney and client, and have the like remedy for the same as any Defendant hath by law in other cases. 8 V. c. 45, s. 11.

Defendant, if
successful, to
have full
costs.

Distribution
of penalties.

18. All sums of money awarded or imposed as fines or penalties, by virtue of this Act, shall be paid as follows, that is to say :—one moiety thereof shall be paid to the party charging the offence in writing before the Justice, and the

other moiety to the Treasurer of the County or City wherein the offence was committed, to be by him accounted for in the same manner as for other moneys deposited with or paid over to him. 8 V. c. 45, s. 12.

19. This Act is not to extend to the people called Indians. Not to extend to Indians.
8 V. c. 45, s. 14.

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THE CONSOLIDATED STATUTES

FOR

LOWER CANADA.

1860.

CHAP. I.

An Act respecting the Consolidated Statutes for Lower Canada.

[Assented to 19th May, 1860.]

Preamble.

WHEREAS it has been found expedient to revise, classify and consolidate the Public General Statutes which apply exclusively to Lower Canada, including as well those passed by the Legislature of the late Province of Lower Canada and of the former Province of Quebec, as those passed by the Parliament of Canada; And whereas such revision, classification and consolidation have been made accordingly; And whereas it is expedient to provide for the incorporation therewith of the Public General Statutes passed during the present Session (1860), in so far as the same affect Lower Canada exclusively, and for giving the force of law to the body of Consolidated Statutes to result from such incorporation: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Original roll
of Statutes
revised, &c.,
to be certified
and deposited.

1. The printed Roll attested as that of the said Statutes so revised, classified and consolidated as aforesaid, under the signature of His Excellency the Governor General, that of the Clerk of the Legislative Council, and that of the Clerk of the Legislative Assembly, and deposited in the office of the Clerk of the Legislative Council, shall be held to be the original thereof, and to embody so much of the

several Acts and parts of Acts mentioned as to be repealed in the Schedule A thereto annexed, as was in force at the commencement of the present Session; but the marginal notes thereon, and the references to former enactments at the foot of the several sections thereof form no part of the said Statutes, and shall be held to have been inserted for the convenience of reference only, and may be omitted or corrected; and any mis-print or error, whether of commission or omission, or any contradiction or ambiguity, in the said Roll, may also be corrected, in the Roll hereinafter mentioned, so that the latter may truly embody the Acts and parts of Acts aforesaid, as amended by the said Acts of the present Session. 23 V. c. 56, s. 1.

As to marginal notes, misprints, &c.

2. The Governor may select such Acts and parts of Acts passed during the present Session as he may deem it advisable to incorporate with the said Statutes contained in the said first mentioned Roll, and may cause them to be so incorporated therewith, through the Law Clerk of the Legislative Assembly, adapting their form and language to those of the said Statutes (but without changing their effect), inserting them in their proper places in the said Statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections, or their order, if need be, and adding to the said Schedule A a list of the Acts and parts of Acts of the present Session so incorporated as aforesaid. 23 V. c. 56, s. 2.

Governor may cause the legislation of the Session of 1860 to be incorporated with the Statutes in the said roll.

3. So soon as the said incorporation of such Acts and parts of Acts with the said Statutes, and the said addition to the said Schedule A have been completed, the Governor may cause a correct printed Roll thereof, attested under his signature and countersigned by the Provincial Secretary, to be deposited in the office of the Clerk of the Legislative Council, which Roll shall be held to be the original thereof, and to embody so much of the several Acts and parts of Acts mentioned as repealed in the amended Schedule A thereto annexed, as was in force when the said Roll was made: any marginal notes, however, and references to former enactments which appear thereon, being held to form no part of the said Statutes, but to be inserted for convenience of reference only. 23 V. c. 56, s. 3.

Certified roll, including the legislation of the Session of 1860 to be deposited and serve as the original thereof.

4. The Governor in Council, after such deposit of the said last mentioned Roll, may, by Proclamation, declare the day on, from and after which the same shall come into force and have effect as law, by the designation of "The Consolidated Statutes for Lower Canada." 23 V. c. 56, s. 4.

Proclamation for bringing the Consolidated Statutes into force on a certain day.

5. On, from and after such day, the same shall accordingly come into force and effect as and by the designation of

On and after that day, they shall be in

force—and
the enact-
ments em-
bodied in
them repeal-
ed.

Exception.

Saving as to
transactions,
&c., anterior
to the repeal.

Certain mat-
ters anterior
to the repeal
not to be
affected by it.
Penalties, &c.

Indictments,
&c.

Actions, &c.

Acts, deeds,
rights, &c.

Offices, &c.

Marriages, &c.

Any other
matters, &c.

But the same
shall remain
valid, &c.

"The Consolidated Statutes for Lower Canada," to all intents as though the same were expressly embodied in and enacted by this Act, to come into force and have effect on, from and after such day; and on, from and after the same day, all the enactments in the several Acts and parts of Acts in such amended Schedule A mentioned as repealed, shall stand and be repealed,—save only as hereinafter is provided. 23 V. c. 56, s. 5.

6. The repeal of the said Acts and parts of Acts shall not revive any Act or provision of law repealed by them; nor shall the said repeal prevent the effect of any saving clause in the said Acts and parts of Acts, or the application of any of the said Acts or parts of Acts, or of any Act or provision of law formerly in force,—to any transaction, matter or thing anterior to the said repeal, to which they would otherwise apply. 23 V. c. 56, s. 6.

7. The repeal of the said Acts and parts of Acts shall not affect,—

1. Any penalty, forfeiture or liability, civil or criminal, incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal,—

2. Nor any indictment, information, conviction, sentence or prosecution had, done, completed or pending at the time of such repeal,—

3. Nor any action, suit, judgment, decree, certificate, execution, process, order, rule, or any proceeding, matter or thing whatever respecting the same, had, done, made, entered, granted, completed, pending, existing, or in force at the time of such repeal,—

4. Nor any act, deed, right, title, interest, grant, assurance, descent, will, registry, contract, lien, charge, matter or thing, had, done, made, acquired, established or existing at the time of such repeal,—

5. Nor any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto at the time of such repeal,—

6. Nor any marriage, certificate or registry thereof, lawfully had, made, granted, or existing before or at the time of such repeal,—

7. Nor shall such repeal defeat, disturb, invalidate or prejudicially affect any other matter or thing whatsoever, had, done, completed, existing or pending at the time of such repeal;

8. But every such
Penalty, forfeiture and liability, and every such
Indictment, information, conviction, sentence and prose-
cution, and every such

Action, suit, judgment, decree, certificate, execution, pro-
cess, order, rule, proceeding, matter or thing, and every such

Act, deed, right, title, interest, grant, assurance, descent, will, registry, contract, lien, charge, matter or thing, and every such

Office, appointment, commission, salary, allowance, security and duty, and every such

Marriage, certificate and registry, and every such other matter and thing, and the force and effect thereof, respectively,

May and shall remain and continue as if no such repeal had taken place, and, so far as necessary, may and shall be continued, prosecuted, enforced and proceeded with under the said Consolidated Statutes and other the Statutes and Laws having force in Lower Canada, in so far as applicable thereto, and subject to the provisions of the said several Statutes and Laws. 23 V. c. 56, s. 7.

And may be enforced, &c., and under what laws.

8. The said Consolidated Statutes shall not be held to operate as new laws, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the said Acts and parts of Acts so repealed, and for which the said Consolidated Statutes are substituted. 23 V. c. 56, s. 8.

Consolidated Statutes not to be deemed new laws.

9. But if upon any point the provisions of the said Consolidated Statutes are not in effect the same as those of the repealed Acts and parts of Acts for which they are substituted, then as respects all transactions, matters and things subsequent to the time when the said Consolidated Statutes take effect, the provisions contained in them shall prevail, but as respects all transactions, matters and things anterior to the said time, the provisions of the said repealed Acts and parts of Acts shall prevail. 23 V. c. 56, s. 9.

How construed if in any case they differ from the repealed Acts, &c.

10. Any reference in any former Act remaining in force, or in any instrument or document, to any Act or enactment so repealed, shall, after the Consolidated Statutes take effect, be held, as regards any subsequent transaction, matter or thing, to be a reference to the enactments in the Consolidated Statutes having the same effect as such repealed Act or enactment. 23 V. c. 56, s. 10.

As to references to repealed Acts in former Acts, &c.

11. The insertion of any Act in the said Schedule A shall not be construed as a declaration that such Act or any part of it was or was not in force immediately before the coming into force of the said Consolidated Statutes. 23 V. c. 56, s. 11.

Effect of insertion of an Act in Schedule A.

12. Copies of the said Consolidated Statutes printed by the Queen's Printer from the amended Roll so deposited, shall be received as evidence of the said Consolidated Statutes in all Courts and places whatsoever. 23 V. c. 56, s. 12.

Copies by Queen's Printer to be evidence.

Interpreta-
tion of the
said Statutes.

13. The Interpretation Act contained in the Consolidated Statutes of Canada, shall apply to the Consolidated Statutes for Lower Canada and to this Act;— and in construing this Act or any Act forming part of the said last mentioned Statutes, unless it be otherwise provided, or there be something in the context or other provisions thereof indicating a different meaning or calling for a different construction,—

Extent of
enactments.

1. The enactments in such Act apply to the whole of Lower Canada;

Law to be
construed as
speaking at
the time when
the case
arises.

2. The law is to be considered as always speaking; and whenever any matter or thing is expressed in the present tense, the same is to be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof according to its spirit, true intent and meaning;

“Shall” and
“may.”

3. The word “shall” is to be construed as imperative, and the word “may” as permissive;

“Herein.”

4. Whenever the word “herein” is used in any section of an Act, it is to be understood to relate to the whole Act and not to that section only;

“Quorum.”

5. When any act or thing is required to be done by more than two persons, a majority of them may do it;

“Proclama-
tion.”

6. The word “Proclamation” means a Proclamation under the Great Seal, and the expression “Great Seal” means the Great Seal of the Province of Canada;

Proclamation.

7. When the Governor is authorized to do any act by Proclamation, such Proclamation is to be understood to be a Proclamation issued under an order of the Governor in Council; but it shall not be necessary that it be mentioned in the Proclamation that it is issued under such order; and this provision shall not prevent the validity of any Proclamation heretofore issued by the Governor, which shall be valid though not under the Great Seal;

“County.”

8. The word “County” includes two or more Counties united for the purposes to which the enactment relates. 23 V. c. 56, s. 13.

References to
chapters and
sections.

9. Whenever reference is made to a chapter by its number, without further description, then the chapter of the Consolidated Statutes for Lower Canada bearing such number is intended;—and whenever a section is referred to by its number, without further description, then the section bearing such number in the Chapter in which the reference occurs is intended.

As to English
and French
versions.

14. If upon any point there be a difference between the English and French versions of the said Statutes, that version which is most consistent with the Acts consolidated in the said Statutes shall prevail. 23 V. c. 56, s. 14.

As to distri-
bution of
copies.

15. The laws relating to the distribution of the printed copies of the Statutes shall not apply to the said Consolidated Statutes, but the same shall be distributed in such numbers

and to such persons only as the Governor in Council may direct. 23 V. c. 56, s. 15.

16. This Act shall be printed with the said Consolidated Statutes and shall be subject to the same rules of construction as the said Consolidated Statutes;—And any Chapter of the said Statutes may be cited and referred to in any Act and proceeding whatever, civil and criminal, either by its title as an Act,—or by its number as a Chapter in the copies printed by the Queen's Printer,—or by its short title. 23 V. c. 56, s. 16.

This Act to be printed with the said Statutes.

How they may be cited.

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CHAP. III.

An Act respecting the time when certain Laws took effect, the publication of Acts and Proclamations, and the preservation of certain Records.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

PUBLICATION OF LAWS, ETC.

Acts and Ordinances of former Province of Lower Canada declared to have taken effect from the time they received the Royal Assent.

1. For avoiding doubts it is declared,—that Acts and Ordinances of the former Province of Lower Canada took effect respectively from the time when they were assented to by the Governor in the name of the Crown,—unless some other time was expressly appointed for their commencement, and that if they were reserved for the signification of the pleasure of the Crown, and afterwards assented to, they took effect from the time when the assent of the Crown was signified, by speech or message of the Governor to the Legislature, or by proclamation. 34 G. 3, c. 1,—36 G. 3, c. 1,—1 V. c. 1,—2 V. (2) c. 10.

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CHAP. X.

An Act respecting seditious and unlawful Associations and Oaths.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

UNLAWFUL OATHS AND SOCIETIES.

1. Any person who, in any form, administers or causes to be administered, or is aiding or present at and consenting to the administration or taking of any oath or engagement, purporting or intending to bind the person taking the same—to commit any treason or murder, or any felony punishable with death,—or to engage in any seditious, rebellious or treasonable purpose,—or to disturb the public peace,—or to be of any association, or confederacy, formed for any such purpose,—or to obey the order or commands of any committee or body of men not lawfully constituted, or of any leader or commander, or other person not having authority by law for that purpose, or not to inform or give evidence against any associate, confederate, or other person,—or not to reveal or discover any illegal act, done or to be done,—or not to reveal or discover any illegal oath or engagement administered or tendered to, or taken by such person or persons, or to or by any other person, or the import of any such oath or engagement,—shall be guilty of felony, and may be imprisoned in the provincial penitentiary for any term of years not exceeding twenty-one years.

Administering unlawful oaths for certain purposes, how punishable.

2. And every person who takes any such oath or engagement, not being compelled thereto, shall be guilty of felony, and may be imprisoned in the provincial penitentiary for any term of years not exceeding seven years. 2 V. (2) c. 8, s. 1,—and 6 V. c. 5, s. 4.

Punishment for taking such oath.

2. Compulsion shall not justify or excuse any person taking such oath or engagement, unless within eight days after the taking thereof, if not prevented by actual force or sickness, and then within eight days after the hindrance produced by such force or sickness shall cease, he declares the same, together with the whole of what he knows touching the same, and the person or persons by whom and in whose presence, and when and where such oath or engagement

Compulsion not to be a justification: except on certain conditions.

was administered or taken, by information on oath, before one of Her Majesty's justices of the peace for the district in which such oath or engagement was administered or taken. 2 V. (2) c. 8, s. 2.

Punishment
of aiders and
abettors.

3. Any person aiding at, or present and consenting to the administering or taking of any such oath or engagement or causing any such oath or engagement to be administered or taken, though not present at the taking or administering thereof, shall be a principal offender, and shall be tried as such, although the person who actually administered such oath or engagement, has not been tried or convicted. 2 V. (2) c. 8, s. 3.

In indict-
ments only
the import of
the oath need
be set forth.

4. It shall not be necessary, in any indictment against any person administering, or causing to be administered or taken, or taking any such oath or engagement, or aiding at, or present at and consenting to the administering or taking thereof, to set forth the words of such oath or engagement, but it shall be sufficient to set forth the import of such oath or engagement, or some material part thereof. 2 V. (2) c. 8, s. 4.

Engage-
ments, &c., to
be deemed
oaths.

5. Any engagement or obligation in the nature of an oath, shall be deemed an oath within the meaning of this Act, in whatever form or manner the same is administered or taken, and whether the same be actually administered by any person, or taken by any person without any administration thereof by any person. 2 V. (2) c. 8, s. 5.

What socie-
ties, &c., shall
be unlawful.

6. Every society or association the members whereof are according to the rules thereof, or to any provision, or any agreement for that purpose, required to keep secret the acts or proceedings of such society or association, or admitted to take any oath or engagement, which is an unlawful oath or engagement, within the intent and meaning of the foregoing provisions, or to take any oath or engagement not required or authorized by law,—and every society or association, the members whereof, or any of them, take, or in any manner bind themselves by any such oath or engagement, or in consequence of being members of such society or association,—and every society or association, the members whereof or any of them take, subscribe, or assent to any engagement of secrecy, test or declaration not required by law,—and every society of which the names of the members, or any of them, are kept secret from the society at large, or which has any committee or secret body so chosen or appointed that the members constituting the same are not known by the society at large to be members of such committee or select body, or which has any president, treasurer, secretary or delegate, or other officer, so chosen or appointed that his election or appointment to such office is not known to the society at

large, or of which the names of all the persons and of the committee or select bodies of members, and of all presidents, treasurers, secretaries, delegates and other officers, are not entered in a book kept for that purpose, and open to the inspection of all the members of such society or association, and every society or association which is composed of different divisions or branches, or of different parts acting in any manner separately or distinct from each other, or of which any part shall have any separate or distinct president, secretary, treasurer, delegate or other officer elected or appointed by or for such part, or to act as an officer for such part,—shall be deemed and taken to be unlawful combinations and confederacies :

2. And every person who becomes a member of any such society or association, or acts as a member thereof, and every person who, directly or indirectly, maintains correspondence or intercourse with any such society or association, or with any division, branch, committee, or other select body, treasurer, secretary, delegate, or other officer or member of such society or association, whether within or without the province, as such, or who, by contribution of money or otherwise, aids, abets or supports such society, or any member or officer thereof, as such, shall be deemed guilty of an unlawful combination or confederacy. 2 V. (2) c. 8, s. 6.

What persons shall be deemed confederates.

7. Any person who shall, in breach of the provisions of this Act, be guilty of any such unlawful combination or confederacy as aforesaid, and shall be convicted thereof upon indictment, shall be imprisoned in the provincial penitentiary, for a term not exceeding seven years, nor less than two years, or be imprisoned in the common gaol or house of correction, for any term less than two years. 2 V. (2) c. 8, s. 7, and 6 V. c. 5, s. 4.

Punishment for unlawful confederacy, &c.

8. If any person knowingly permits any meeting of any society or association hereby declared to be an unlawful combination or confederacy, or of any division, branch or committee of such society, to be held in his house, apartment, barn, outhouse, or other building, such person shall, for the first offence, forfeit a sum not exceeding two hundred dollars, and shall, for any such offence committed after the date of his conviction for such first offence, be deemed guilty of an unlawful combination and confederacy, and shall be punished as hereby directed for that offence. 2 V. (2) c. 8, s. 8.

Punishment for allowing meetings of unlawful societies, &c.

9. And whereas certain societies have been long accustomed to be holden in this Province, under the denomination of lodges of free-masons, the meetings whereof have been in great measure directed to charitable purposes :—nothing in this Act shall extend to the meetings of any such society or lodge, holden under the said denomination and in conformity

Act not to extend to lodges of Free-masons, &c.

to the rules prevailing among the said societies of free-masons; Provided such society or lodge has been constituted, by or under the authority of warrants in that behalf, granted by or derived from any grand master or grand lodge in the United Kingdom of Great Britain and Ireland. 2 V. (2) c. 8, s. 9.

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CHAP. XIV.

An Act respecting Indians and Indian Lands.

So much of this Act is in force as is not inconsistent with or does not make provision in matters provided for by 39 V. c. 18 (D.)

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

SELLING STRONG LIQUORS TO INDIANS.

1. No person shall sell, distribute, or otherwise dispose of, to any Indian within Lower Canada, or to any other person for their use, any rum or other strong liquors, of what kind or quality soever, or shall knowingly or willingly suffer the same, in any manner, to come to the hands of any Indian :

Sale of strong liquors to Indians prohibited.

2. Every person offending herein shall, for the first offence, forfeit the sum of twenty dollars, and suffer imprisonment for any time not exceeding one month, and for the second and every subsequent offence, shall forfeit forty dollars, and suffer an imprisonment for any time not exceeding two months ;

Penalty for contravention.

3. If the person so offending be a publican, innkeeper, or retailer of strong liquors, he shall, over and above the said penalty and imprisonment, be rendered incapable, from the day of his conviction, of selling or retailing liquors to any person whatsoever, notwithstanding any license he has for that purpose, which license shall be null and void from the day of his conviction 17 G. 3, c. 7, s. 1—23 V. c. 38.

If offender be a retailer of liquors, he shall also forfeit his license.

4. And nothing in this section shall prevent the effect of the Act twenty-third Victoria, chapter thirty-eight, applying to both Upper and Lower Canada ; but an offender convicted under that Act or under this, shall not afterwards be convicted under the other Act for the same offence. 23 V. c. 38.

This Act not to prevent the effect of 23 V. c. 38.

2. No person shall purchase, or receive in pledge or in exchange, any clothes, blankets, firearms or ammunition belonging to any Indian within this Province, under a penalty of twenty dollars, and imprisonment for any time not exceeding one month, for the first offence, and of forty dollars, and imprisonment for any time not exceeding two months, for the second and every other subsequent offence. 17 G. 3, c. 7, s. 2.

Purchase of clothing and fire arms belonging to Indians prohibited.

SETTLING IN INDIAN VILLAGES.

Settlers
among In-
dians must
obtain a
license.

3. No person shall settle in any Indian village or in any Indian country, within Lower Canada, without a license in writing from the Governor, under a penalty of forty dollars for the first offence, and eighty dollars for the second and every other subsequent offence. 17 G. 3, c. 7, s. 3.

Such settlers
may be order-
ed to remove.

4. The Governor may, by a written instrument, order any person who has become resident in any of the Indian villages in Lower Canada, to remove from such village; and in case of default by the said person so to remove from such Indian village, within seven days from such order being signified to him, he shall forfeit the sum of twenty dollars, for each day after the said seven days, during which he continues to remain in such Indian village, with all costs of prosecution, and shall suffer imprisonment for a period not less than one month and not exceeding two months, and further, until he has paid the said last mentioned penalty and costs. 3, 4 V. c. 44, s. 2.

Penalty on
refusing.

How penalties
may be re-
covered.

5. All the penalties imposed by this Act, for the offences therein specified, may be recovered by information on behalf of Her Majesty, before any two or more of Her Majesty's Justices of the Peace, for the district in which the offence is committed; and such two or more Justices of the Peace shall hear and determine such information in a summary manner, and upon the oath of one credible witness, and shall levy the said penalties, together with the costs of suing for the same by a warrant to seize and sell the goods and chattels of the person or persons offending, and shall inflict the said imprisonment in the manner hereinbefore provided; and all the said pecuniary penalties shall be paid into the hands of the Receiver General, for the public uses of this Province. 3, 4 V. c. 44, s. 3.

Their appo-
riation.

Informations
under this Act
to be laid
within six
months.

6. All informations under and by this Act, shall be brought within six months from the time that the offence is committed, and not afterwards. 3, 4 V. c. 44, s. 4.

PROTECTION OF PROPERTY OF INDIANS.

Appointment
of a Commis-
sioner of In-
dian Lands.
His powers
and duties.

7. The Governor may appoint from time to time a Commissioner of Indian Lands for Lower Canada, in whom and in whose successors by the name aforesaid, all lands or property in Lower Canada, appropriated for the use of any tribe or body of Indians, shall be vested in trust for such tribe or body, and who shall be held in law to be in the occupation and possession of any lands in Lower Canada actually occupied or possessed by any such tribe or body in common, or by any chief or member thereof or other party for the use or benefit of such tribe or body, and shall be entitled to receive

and recover the rents, issues and profits of such lands and property, and shall, in and by the name aforesaid, subject to the provisions hereinafter made, exercise and defend all or any of the rights lawfully appertaining to the proprietor, possessor or occupant of such lands or property :

2. This section shall extend to any lands in Lower Canada held by the Crown in trust for or for the benefit of any such tribe or body of Indians, but shall not extend to any lands vested in any corporation or community legally established and capable in law of suing and being sued, or in any person or persons of European descent, although held in trust for or for the benefit of any such tribe or body. 13, 14 V. c. 42, s. 1.

Powers to extend to certain lands.

8. All suits, actions or proceedings by or against the said Commissioner shall be brought and conducted by or against him by the name aforesaid only, and shall not abate or be discontinued by his death, removal from office or resignation, but shall be continued by or against his successor in office :

How suits, &c., must be brought.

2. Such Commissioner shall have in each civil district in Lower Canada, an office which shall be his legal domicile, and whereat any process, notice or like matter may be legally served upon him, and may appoint such deputy or deputies, and with such powers as he, from time to time, deems expedient, or is instructed by the Governor to do. 13, 14 V. c. 42, s. 2, *except proviso*.

Domicile of commissioner.

9. The said Commissioner may concede or lease or charge any such land or property as aforesaid, and receive or recover the rents, issues and profits thereof as any lawful proprietor, possessor or occupant thereof might do, but shall be subject in all things to the instructions he may from time to time receive from the Governor, and shall be personally responsible to the Crown for all his acts, and more especially for any act done contrary to such instructions, and shall account for all moneys received by him, and apply and pay over the same in such manner, at such times and to such person or officer, as may be appointed by the Governor, and shall report from time to time on all matters relative to his office in such manner and form, and give such security, as the Governor shall direct and require ; and all moneys and moveable property received by him or in his possession as Commissioner, if not duly accounted for, applied and paid over as aforesaid, or if not delivered by any person having been such Commissioner to his successor in office, may be recovered by the Crown or by such successor, in any Court having civil jurisdiction to the amount or value, from the person having been such Commissioner and his sureties, jointly and severally. *Ibid*, s. 3.

Commissioner may concede, lease or charge lands.

He shall give security.

10. Nothing herein contained shall be construed to derogate from the rights of any individual Indian or other

Rights of individual Indians, &c., saved.

private party, as possessor or occupant of any lot or parcel of land forming part of or included within the limits of any land vested in the Commissioner aforesaid. *Ibid*, s. 4.

Who shall be deemed "Indians" within the meaning of this Act.

11. For the purpose of determining what persons are entitled to hold, use or enjoy the lands and other immoveable property belonging to or appropriated to the use of the various tribes or bodies of Indians in Lower Canada, the following persons and classes of persons, and none other, shall be considered as Indians belonging to the tribe or body of Indians interested in any such lands or immoveable property :—

Firstly. All persons of Indian blood, reputed to belong to the particular tribe or body of Indians interested in such lands or immoveable property, and their descendants ;

Secondly. All persons residing among such Indians, whose parents were or are, or either one of them was or is, descended on either side from Indians, or an Indian reputed to belong to the particular tribe or body of Indians interested in such lands or immoveable property, and the descendants of all such persons ; And

Thirdly. All women lawfully married to any of the persons included in the several classes hereinbefore designated ; the children, issue of such marriages, and their descendants. 14, 15 V. c. 59, s. 2.

LANDS SET APART FOR INDIANS.

Certain lands to be set apart for Indians.

12. Tracts of land in Lower Canada, not exceeding in the whole two hundred and thirty thousand acres, may, (in so far as the same has not been already done under the Act 14, 15 Victoria, chapter 106,) under Orders in Council to be made in that behalf, be described, surveyed and set out by the Commissioner of Crown Lands, and such tracts of land shall be respectively set apart and appropriated to and for the use of the several Indian tribes in Lower Canada, for which they are respectively directed to be set apart in any Order in Council, made as aforesaid, and the said tracts of land shall accordingly, by virtue of this Act, and without any price or payment being required therefor, be vested in and managed by the Commissioner of Indian lands for Lower Canada, under this Act. 14, 15 V. c. 106, s. 1.

Annual grant for Indian tribes.

13. There shall be paid yearly out of the Consolidated Revenue Fund of this Province, a sum not exceeding four thousand dollars, to be distributed amongst certain Indian tribes in Lower Canada by the Superintendent General of Indian affairs, in such proportions amongst the said Indian tribes, and in such manner as the Governor in Council may from time to time direct. *Ibid*, s. 2.



CHAP. XXIII.

An Act respecting the Sale of Goods on Sundays.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. Except as hereinafter provided—No shop-keeper, pedler, hawker, tavern-keeper or other person keeping a public house of any description, in any part of Lower Canada, shall sell or retail any goods, wares or merchandize, wine, spirits or any other strong liquors, during the Lord's day, commonly called Sunday; and every person of the description abovesaid, who sells or retails such goods, wares or merchandize, wine, spirits, or other strong liquors on the Lord's day, shall incur for the first offence, a penalty which shall not exceed twenty dollars, and for the second and every subsequent offence, shall incur a penalty not less than twenty dollars nor more than forty dollars: 45 G. 3, c. 10, s. 1.

Penalty on persons selling goods, wares or spirituous liquors on Sundays.

2. And it shall not be lawful to sell any goods, wares or merchandize, or any property moveable or immoveable, on Sunday, under the authority of any Court of Justice in Lower Canada, and any such sale made on Sunday shall be void and of no effect. 18 V. c. 117, s. 1.

Judicial sales not to be made on Sunday.

2. This Act shall not hinder the said shop-keepers, tavern-keepers, and other persons who keep public houses, to sell and furnish, on the Sunday, wine, spirits or other strong liquors to sick persons or travellers, nor prevent selling at the church doors of the country parishes on Sundays, the effects arising from public gatherings for the benefit of churches, or those destined for pious purposes. 45 G. 3, c. 10, s. 2,—14, 15 V. c. 100, s. 12, and 18 V. c. 117, s. 1.

But wine or spirits may be furnished to travellers, &c.

Exception as to goods sold for pious purposes.

3. The said fines and forfeitures shall be recoverable before one of Her Majesty's justices of the peace nearest to the place where the offence is committed, who shall hear and determine such offence in a summary way, either by voluntary confession of the party accused, or upon the oath of one or more credible witnesses, other than the prosecutor, except where such prosecutor is a church-warden, constable or peace officer, in which case he shall be a competent

How the fines shall be recovered.

And enforced. witness ; and in default of payment of the sum forfeited, it shall be recovered by seizure and sale of the offender's goods and chattels, by warrant under the hand and seal of such justice, addressed to any peace officer or sergeant of militia, and any surplus of the money so recovered after deducting the forfeiture and reasonable charges of seizure and sale, taxed by a justice of the peace, shall be returned to the owner. 45 G. 3, c. 10, s. 3,—and 7 G. 4, c. 3, s. 10.

Fines appropriated. 4. The one half of the said fines and forfeitures shall belong to the person prosecuting, and the other half shall belong to Her Majesty and shall be paid to the Receiver General for the public use of the Province. 45 G. 3, c. 10, s. 4.

Limitation of actions. 5. No prosecution shall be instituted against any person for any such fine or forfeiture unless it be commenced within two months after the offence committed. 45 G. 3, c. 10, s. 5.

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CHAP. LXIX.

An Act respecting Building Societies.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. * * * *

2. Such society shall be constituted for the purpose of raising, by monthly or other periodical subscriptions of the several members of the said society, in shares not exceeding the value of four hundred dollars for each share, (and by subscriptions not exceeding four dollars per month for each share,) a stock or fund for enabling each member to receive out of the funds of the society the amount or value of his share or shares therein, for the purpose of erecting or purchasing one or more dwelling houses, or other freehold or leasehold estate, such advance to be secured by mortgage or otherwise to the said society until the amount or value of his share or shares is fully paid to the said society, with the interest thereon, and with all fines or liabilities incurred in respect thereof:

Purpose for which such society shall be constituted.

3. The several members of such society may, from time to time, assemble together, and make, ordain and constitute such proper and wholesome rules and regulations for the government and guidance of the same, as to the major part of the members thereof so assembled together seem meet, so as such rules be not repugnant to the express provisions of this Act, or to the laws in force in Lower Canada; and may impose and inflict reasonable fines, penalties and forfeitures upon members of the society offending against such rules, to be respectively paid to such uses for the benefit of the said society, as the said society by such rules shall direct; and may also from time to time amend and alter such rules as occasion may require, or annul or repeal the same, and make new rules in lieu thereof, subject to the provisions herein-after made:

Rules for the government of the society to be made by its members.

4. But no member shall receive from the funds of any such society any interest or dividend by way of annual or other periodical profit upon any share in the society, until the amount of value of his share or shares has been realized, except on the withdrawal of such member according to the rules of the society then in force. 12 V. c. 57, s. 1.

Members to receive no profits until the amount of their shares is realized.
Exception.

Society may receive a *bonus* for advance made to members.

2. Every such society may receive from any member any sum of money by way of *bonus* on any share, for the privilege of receiving the same in advance prior to its being realized, besides interest for the share so received or any part thereof, without being held thereby to contravene any law relating to usury. 12 V. c. 57, s. 2.

Appointment of board of directors.

3. Each such society shall, from time to time, elect and appoint any number of the members of the said society to be a board of directors (who shall choose a president and vice-president,) the number and qualification thereof to be declared in the rules of such society; and may delegate to such directors the execution of all or any of the powers given by this Act; and such directors being so elected shall continue to act during such time as shall be appointed by the rules of such society, the powers of such directors being first declared in and by the said rules; and in all cases where directors are appointed for any particular purpose, the powers delegated to them shall be reduced to writing and entered in a book by the secretary of the society:

Majority of directors must concur in all proceedings.

2. A majority of the number of such directors, present at any meeting thereof must concur in any act of such directors in order to make such act valid, and they shall, in all things delegated to them, act for and in the name of such society; and all acts and orders of such directors, under the powers delegated to them, shall have the like force and effect as the acts and orders of the society at any general meeting thereof could have had under this Act:

Minute book of proceedings.

3. But the transactions of the directors shall be entered in a book belonging to the society, and shall from time to time and at all times be subject and liable to the review, allowance and disallowance of such society, in such manner and form as such society have by their general rules directed. 12 V. c. 57, s. 3.

Society to declare certain particulars in their rules.

4. Every such society shall, by one or more of their said rules, declare all and every the interests and purposes for which such society is established; and shall also, in and by such rules, direct all and every the uses and purposes to which the money from time to time subscribed, paid or given to or for the use or benefit of the said society, or arising therefrom or in anywise belonging to the society, shall be appropriated and applied;—and in what shares or proportions and under what circumstances any member of such society, or other person, shall become entitled to the same, or any part thereof:

Application of moneys restricted.

2. But the application of such money shall not in any wise be repugnant to the uses, interests or purposes of such society, or any of them to be declared as aforesaid;—and all such rules during their continuance shall be complied with and enforced; and no such moneys as aforesaid shall be diverted or misapplied either by the directors or treasurer,

or any other officer or member of the society entrusted therewith, under such penalty or forfeiture as the society may, by any rule, inflict for such offence. 12 V. c. 57, s. 4.

5. The rules for the management of each such society shall be entered and recorded in a book to be kept for that purpose, which book shall be open at all seasonable times for the inspection of the members of such society; but nothing in this section shall prevent any alteration in or amendment of any such rules in the whole or in part, or the making any new rules for the management of the society, in such manner as by the rules of the society may from time to time be provided. 12 V. c. 57, s. 5.

Rules to be entered in a book to be open for inspection.

6. All rules from time to time made and in force for the management of any such society and entered and recorded as aforesaid, shall be binding on the several members and officers of the society, and the several contributors thereto, and their representatives, all of whom shall be held to have full notice thereof by such entry and record as aforesaid; and the entry of such rules in the book or books of the said society as aforesaid, or a true copy of the same, examined with the original and proved to be a true copy, shall be received as evidence of such rules respectively, in all cases. 12 V. c. 57, s. 6.

Such entry to be deemed sufficient notice and to make rules binding.

7. No rule entered as aforesaid shall be altered, rescinded or repealed, unless at a general meeting of the members of the society, convened by public notice written or printed, signed by the secretary or president of the society in pursuance of a requisition for that purpose by more than one-half of the members of such society, which requisition shall state the objects for which the meeting is called and shall be addressed to the president and directors; whereupon each member shall be notified of the proposed alterations through the post office, within fifteen days; but three-fourths of the members present at such meeting must concur in such alterations or repeal. 12 V. c. 57, s. 7,—18 V. c. 116, ss. 1 and 2.

How only rules may be repealed or amended.

8. The rules of every such society shall specify the place or places at which it is intended that the society shall hold its meetings, and shall contain provisions with respect to the powers and duties of the members at large, and of such officers as may be appointed for the management of the affairs of the society. 12 V. c. 57, s. 8.

Place of meeting, &c., to be specified.

9. The directors of every such society shall from time to time at any of their usual meetings, elect and appoint such officers of the society, and grant such salaries and emoluments as they may deem fit and pay any necessary expenses incurred in the management of the society; and shall elect such officers for such space of time and for such purposes as

Appointment of officers.

shall be fixed and established by the rules of the said society, and may from time to time discharge them and appoint others in the room of those who vacate or die or are discharged :

Certain officers to give security for the faithful discharge of their duties.

2. Every such officer or other person appointed to any office in any wise concerning the receipt, management or expenditure of any sum of money collected for the purposes of the said society, shall, before being admitted to take upon him the execution of any such office or trust, enter into a bond in such form and for such amount as the directors may determine, with two sufficient sureties, for the just and faithful execution of such office or trust, and for rendering a just and true account according to the rules of the said society for paying obedience to the same and in all matters lawful. 12 V. c. 57, s. 9.

Society may hold real estate hypothecated to them.

10. Any such society may take and hold any real estate, or securities thereon, *bonâ fide* mortgaged, assigned or hypothecated to the said society, either to secure the payment of the shares subscribed for by its members, or to secure the payment of any loans or advances made by, or debts due to such society, and may also proceed on such mortgages, assignments or other securities, for the recovery of the moneys thereby secured, either at law or in equity or otherwise ; and such society may invest in the names of the president and treasurer for the time being, any of its surplus funds in the stocks of any of the chartered banks or other public securities of the province ; and all dividends, interest and proceeds arising therefrom shall be brought to account and applied to and for the use of the society according to the rules thereof. 12 V. c. 57, s. 10.

Investment of surplus funds.

Society may make loans on certain conditions.

11. Any such society may, from time to time, lend and advance to any member or other person, money from and out of its surplus funds, upon the security and mortgage (*hypothèque*) of real estate, and for such period as to the society or its directors seems satisfactory or expedient, and may receive therefor such sum of money, by way of bonus, besides interest thereon, as may be agreed upon, without being subject on account thereof to any forfeiture or penalty, and may from time to time vary such investments at their discretion. 20 V. c. 54, s. 1.

Society may sell property hypothecated to them on non-payment of instalments, &c., secured thereby.

12. Whenever any such society has received from any shareholder a mortgage or hypothec, or an assignment or transfer of any real estate belonging to him or her, to secure the payment of any advance, and containing an authority to the society to sell such real estate in case of non-payment of any stipulated number of instalments or sums of money (as every such society is hereby authorized to do) and containing also power to the said society to apply the proceeds of such sale to the payment of the advances, interest and all

other charges due to the said society, and after perfect payment thereof and of all costs and expenses incident thereto, to pay over the balance to the owner of such estate;—such stipulations and agreement shall be valid and binding to all intents and purposes whatsoever, and such society may cause the same to be enforced by an action or proceeding in the usual course in any court of law in Lower Canada, having competent jurisdiction, and such action may be brought in the corporate name of any such society. 14, 15 V. c. 23, s. 1, and 18 V. c. 116, s. 3.

Actions at law may be brought in the corporate name.

13. Every such society may advance, in the usual manner, moneys on any real estate whatsoever of any member of the said society, as well for the actual purchase of the same and for the erection of buildings thereon, as generally upon the security of any real estate belonging to any such member at the time of his borrowing such moneys, and may take a mortgage, hypothec or assignment of all such real estate whatsoever in security for such advances, on the same conditions and with the same privileges in all respects as any other real estate by this Act authorized to be mortgaged, hypothecated or assigned; and all securities heretofore taken for moneys advanced in the manner above mentioned shall be valid and binding on the parties to all intents and purposes whatsoever, as if taken under this Act:

Nature of securities upon which society may advance moneys.

2. All or any person or persons whosoever, whether capitalists or otherwise, may become members of any such society; and co-partners and corporate bodies may hold shares therein, in the same manner as single individuals. 14, 15 V. c. 23, s. 4.

Who may be members of building societies.

14. In any action or proceeding instituted by any such society for the purpose of realizing or bringing to sale any property hypothecated, mortgaged or assigned to the society as aforesaid, it shall not be necessary to set forth the special matters in the declaration,—but it shall be sufficient to allege that the defendant hypothecated, mortgaged or assigned (as the case may be) the real estate, describing the same, to the society, and that the amount (or sufficient part of the amount) stipulated by such party to be paid, has become and remains due and owing, whereby by virtue of this Act an action hath accrued to the society, to have the said estate and property sold:

What must be alleged in actions to sell property hypothecated.

2. In order to maintain such action, it shall be sufficient, in addition to the customary evidence of the hypothec, mortgage or assignment of such property or estate, to prove by any one witness, whether in the employment of, or a shareholder in such society or not, or by any other means, that the defendant is in arrear and indebted to the said society in or exceeding a sum on the accruing of which, by the terms of such hypothec, mortgage, assignment or agreement, the said society has the right to have the said property or

What evidence will suffice in such actions

estate sold; and thereupon the court shall give judgment for the said amount, and by such judgment order the property to be sold by the sheriff of the district wherein it lies, after three insertions in the course of four months in the *Canada Gazette*; and it shall not be necessary for the sheriff to go through any formalities in seizing the said lands or otherwise:

Laws in relation to real estate under seizure to apply to proceedings under this Act.

3. All the laws of Lower Canada, with respect to the protection of immoveable property under seizure, and with respect to the filing of oppositions to the sale of lands or immoveable property, or after such sale, to the payment, return and distribution of the money, to the re-sale of such immoveable property at the *folle enchère* of any purchaser, and to the obtaining possession of any such immoveable property after sale, shall be applicable to the proceedings authorized by this Act; and the provisions of all laws of Lower Canada regulating the sale of real estate, and the judicial proceedings relative thereto, shall, in so far as applicable, and it is not otherwise provided for by this Act, extend to all proceedings to be had under this Act; and if it be not otherwise herein directed, all such proceedings, in so far as may be, shall be conducted in like manner as proceedings under ordinary writs of execution, and the deed to be given by the sheriff shall have the like effect as a deed given under an ordinary writ of execution; except that the sheriff of the district shall, in addition to his disbursements, be entitled to deduct only one per centum commission from the gross proceeds of the sale. 14, 15 V. c. 23, s. 2.

Cases in which shares may be declared forfeited.

15. Every such society may forfeit and declare forfeited to the society, the shares of any member who neglects or is in arrear to pay such number of instalments as may be fixed by any stipulation or by-law; and every such society may pursue the same course, exercise the same power, and take and use the same remedies to enforce the payment of any debt or demand due to such society, as any person or body corporate may by law take or use for such purpose. 14, 15 V. c. 23, s. 3.

Provision in the event of the death or insolvency of any officer of such society.

16. If any person appointed to any office by any such society, and being entrusted with and having in his hands or possession, by virtue of his office, any moneys or effects belonging to such society, or any deeds or securities relating to the same, dies or becomes bankrupt or insolvent, his heirs, executors, curators, administrators or assigns, or other person having a legal right, shall, within fifteen days after demand made by the order of the directors of such society or the major part of them, assembled at any meeting thereof, deliver over all things belonging to the said society, to such persons as the said directors shall appoint, and shall pay out of the estates, assets or effects of such person, all sums of money remaining due which such person received by virtue

of his office, before any of his other debts are paid or satisfied, and all such assets, estates and effects shall be bound to the payment and discharge thereof accordingly; except that the same shall not be paid or satisfied to the prejudice of mortgages or privileges on real estate, or of liens or privileges on personal estate only, duly executed previous to the appointment of such officer. 12 V. c. 57, s. 11.

17. All real and personal property, moneys, goods, chattels and effects whatever, and all titles, securities for money or other obligatory instruments and evidences or muniments, and all other effects whatever, and all rights and claims belonging to or had by any such society, shall be vested in the society by its corporate name and style, declared in the declaration mentioned in the first section of this Act as that under which such society shall be known; and shall for all purposes of action or suit, as well criminal as civil, in law as in equity, in any wise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding (when necessary) be stated to be, the property of the society by the name and style aforesaid, without further description, and by the said name and style the society may sue and be sued, bring or defend any action, suit or prosecution, criminal as well as civil, in law or in equity, touching or concerning the property, right or claim of or belonging to the society, and in all cases concerning any property, right or claim of the said society, may sue and be sued, plead and be impleaded: 12 V. c. 57, s. 1.,—and 18 V. c. 116, s. 3.

All the property, &c., of such society to be vested in the society by its corporate name.

2. But nothing in this Act has abated or discontinued or shall abate or discontinue or affect any action, prosecution or proceeding brought on behalf of any such society by the president and treasurer thereof; and the same shall be continued in the corporate name of the society. 18 V. c. 116.

Pending actions not affected.

18. In all such actions, suits and prosecutions to which any such society is a party, the secretary of such society shall be a competent witness, notwithstanding he be also treasurer, and that his name has been used in such action, suit or prosecution as such treasurer. 12 V. c. 57, s. 13.

The secretary to be a competent witness.

19. The president, vice-president and directors of every such society shall in their private capacity be exonerated from all responsibility in relation to the liabilities of such society. 12 V. c. 57, s. 14.

Liability of directors limited.

20. The rules of every such society shall provide that the treasurer or other principal officer thereof shall once at least in every year prepare a general statement of the funds and effects of the society, specifying in whose custody or possession the said funds or effects are then remaining, with an account of every sum of money received and expended

General statement of affairs to be annually prepared by treasurer.

by or on account of the society since the publication of the preceding periodical statement; and every such periodical statement shall be attested by two or more members of the said society appointed auditors for that purpose, who shall not be directors, and shall be countersigned by the secretary of the society, and every member shall be entitled to receive from the said society a copy of such periodical statement, without charge. 12 V. c. 57, s. 15.

PERMANENT BUILDING SOCIETIES.

This Act to extend to permanent building societies.

21. Permanent building societies, enabling persons to become members thereof at any time for investment therein, or to obtain the advance of their shares by giving security therefor, and to fix and determine with any such society the time and amount at and by which such members shall repay such advanced shares and obtain the release of the said security, without being liable to the contingency of losses or profits in the business of the said society, may be formed and subsist under this Act. 22 V. (1859) c. 58, *pre-amble*, s. 1.

Permanent building societies having fulfilled the conditions required under this Act to be building societies within the meaning thereof.

22. Any permanent building society established and conducted on the principles hereinbefore mentioned, which has fulfilled and observed the requisite conditions for the establishment of a building society under the foregoing provisions of this Act, shall be a building society within the meaning of this Act; and any person who has approved the rules and regulations of any such building society entered and recorded in a book, as in the fifth section required, and has subscribed his name as a shareholder for one or more shares, shall, from the time of such approbation and subscription be a member of such building society; and the production of the book containing the rules for the management of such society, kept as in the said section required, signed by such person or by his duly authorized attorney, and duly witnessed, shall be sufficient evidence of membership in such building society. 22 V. (1859) c. 58, s. 1.

Such societies may amend, &c., their rules, and how.

23. Any permanent building society may alter, amend, repeal or make any regulation, rule or by-law for the working of the society at a public meeting of the members thereof, duly convened according to this Act and the rules of such society. *Ibid*, s. 2.

To what extent such society may borrow money.

24. No such society, by its rules, regulations and by-laws authorized to borrow money, shall borrow, receive, take or retain, otherwise than in stock and shares in such society, from any person or persons, any greater sum than three-fourths of the amount of capital actually paid in on unadvanced shares and invested in real securities by such society;—and the paid in and subscribed capital of the society shall

be liable for the amount so borrowed, received or taken by any society. 22 V. (1859) c. 58, s. 3.

25. When any share in any such society has been fully paid up according to the rules of the society, or has become due and payable to the holder thereof, the holder of such share may either withdraw the amount of such share from the said society, according to the rules and regulations thereof, or invest the amount of such share in the society, and receive therefrom, periodically, such proportion of the profits made by such society as shall be provided for by a by-law to be passed for the purpose; and the amount of such share so invested shall become fixed and permanent capital or shares in the said society not withdrawable therefrom, but transferable in the same manner as other shares in the said society. *Ibid*, s. 4.

Holders of shares fully paid up may withdraw or invest the amount.

26. Any such society may advance to members on the security of investing on unadvanced shares in the said society, and may receive and take from any person or body corporate, any real or personal security of any kind whatever as collateral security for any advance made to members of the society. *Ibid*, s. 5.

Society may loan money on unadvanced shares.

27. Any such society may hold absolutely real estate for the purposes of its place of business, not exceeding the annual value of six thousand dollars. *Ibid*, s. 6.

Society may hold certain real estate.

28. No such society shall be bound to see to the execution of any trust, whether expressed, implied or constructive, to which any share of its stock is subject; and the receipt of the party in whose name any such share stands in the books of the society, (or if such share stand in the names of more parties than one, the receipt of one of the parties) shall be a sufficient discharge to the society for any payment of any kind made in respect of such share, notwithstanding any trust to which such share is then subject, and whether or not the society has had notice of such trust; and the society shall not be bound to see to the application of the money paid upon such receipt. *Ibid*, s. 7.

Society not bound to see to the execution of trusts to which any shares may be subject.

29. Nothing in this Act shall apply to or affect "The Montreal Building Society," incorporated under the Act eighth Victoria, chapter ninety-four, or in any wise to affect the said Act. 12 V. c. 57, s. 16.

Nothing in this Act to affect the Montreal Building Society.

30. In this Act the word "society" means a building society established under this Act; the word "Rules" shall include rules, orders, by-laws and regulations; the words "Real Estate" mean and include immoveable estate and property generally; and the words "Personal Estate" mean and include all moneys, goods, chattels and other

Interpretation of certain words.

property not being real property; and the word "Securities" includes privileges, mortgages (equitable as well as legal,) *hypothèques* and incumbrances upon real estate, as well as other rights and privileges upon personal estate and property:

Application.

2. This Act shall extend to aliens, denizens and females, both to make them subject thereto and to entitle them to all the benefits given thereby:

And construction of this Act.

3. This Act shall be construed in the most beneficial manner for promoting the ends thereby intended. 12 V. c. 57, s. 17.

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CHAP. LXXXVII.

An Act respecting Arrest and Imprisonment for Debt, and the relief of Insolvent Debtors.

HER Majesty, by and with the advice and consent of the
Legislative Council and Assembly of Canada, enacts
as follows:—

* * * * *

SURRENDER OF PROPERTY AND RELIEF OF INSOLVENT DEBTORS.

12. If Judgment for a sum of, or exceeding eighty dollars, exclusive of interest from the service of process and costs, is rendered against any defendant who has been arrested and has put in security as hereinbefore is provided, then such defendant shall, within thirty days from the rendering of such Judgment, if the same remains then unsatisfied, make and file in the office of the Prothonotary of the Court a statement under oath, making known of what property, real or personal, he is possessed, and where the same is situate, to the intent that the plaintiff may proceed and take the said property in execution, if he sees fit, and also making known the names and addresses of all and every the creditors of such defendant, and the amount and nature (privileged, hypothecary or otherwise) of the claim or claims of every such creditor, and also a declaration that he is willing to abandon the property real and personal set forth in the said statement for the benefit of his creditors: 12 V. c. 42, s. 4, *part*

Defendant
having given
security upon
judgment
being given
against him,
to make a cer-
tain state-
ment.

2. If the defendant neglects to file such statement as afore-
said, or if at any time within two years after the filing of
such statement, the plaintiff in the suit establishes, either
by the examination of the defendant under oath, or by other
evidence,—that when the statement was so filed the defen-
dant was proprietor of any chattels, effects, lands or tene-
ments, of the value of eighty dollars, wilfully omitted from
the said statement,—or that at any time between the insti-
tution of the plaintiff's action and the making of such state-
ment on the part of the defendant, or within thirty days
next preceding the institution of such action, the defendant
secreted any part of his property with the intent of defraud-
ing his creditors,—or that the defendant has made any

Consequences
of default
to make such
statement or
making a
false state-
ment.

fraudulent mis-statement in respect of his creditors or their claims,—or if the defendant fails to appear for the purpose of being examined in relation to such statement, at any time appointed for such examination by the court or any Judge thereof,—then the Court, or any Judge thereof, in term or in vacation shall order the defendant to be imprisoned in the common gaol of the District for such period not exceeding one year as such Court or Judge thinks reasonable, in punishment of the misconduct of which he or they shall adjudge such defendant to have been guilty :

Liability of sureties if defendant does not surrender himself.

3. And if the defendant, so ordered to be imprisoned, does not surrender himself and is not surrendered for that purpose according to the requirements of the order in that behalf, then the parties who have so become security that the defendant would so surrender himself, shall forthwith be liable to pay to the said plaintiff the debt, interest and costs, in relation to which such security was given, and all subsequent costs. 12 V. c. 42, s. 4.

Defendant in gaol may make a like statement.

13. Any defendant arrested as aforesaid, and confined in gaol, may, at any time either before or after judgment, make and file a statement of his property real and personal, and of his creditors, such as is mentioned in the next preceding section of this Act, and may make and file with such statement a declaration that he is willing to abandon the property real and personal set forth in the said statement, for the benefit of his creditors :

Upon proof of fraud the defendant may be imprisoned.

2. If the plaintiff, within four months from the service upon him or upon his Attorney of a copy of such statement and declaration, establishes either by the examination of the defendant under oath or by other evidence, that when the statement was so filed, the defendant was proprietor of any chattels, effects, lands or tenements of the value of eighty dollars, wilfully omitted from such statement,—or that at any time between the institution of the plaintiff's action and the making of such statement on the part of the defendant, or within thirty days next preceding the institution of such action, the defendant secreted any part of his property with the intent of defrauding his creditors,—or that the defendant has made any fraudulent mis-statement in respect of his creditors or their claims,—then the Court, or any Judge thereof, in term or in vacation shall order the defendant to be imprisoned in the Common Gaol of the District for such period not exceeding one year, as such Court or Judge thinks reasonable, in punishment of the misconduct of which he or they shall adjudge the defendant to have been guilty :

But if no fraud be proved defendant to be discharged.

2. But if no omission such as aforesaid in the statement so made and filed by the defendant, is established, and if it is not established that the defendant has secreted any part of his property within the period aforesaid, and with the intent aforesaid, then the said Court, or any Judge

thereof, in term or in vacation, at the expiration of the said period of four months, may order the defendant to be discharged from his imprisonment: 12 V. c. 42, s. 5.

4. In any case where such omission or other misconduct has been formally alleged against the defendant before the expiration of the said term of four months, the Court or Judge, upon satisfactory cause shown, may extend the time during which proof relative to such complaint may be taken, for a period of not more than two months, and if, during such extension of time, such omission or other misconduct is established, the Court or Judge may order such defendant to be imprisoned in punishment thereof in the same manner as if the same had been established during the said term of four months. *Ibid*, s. 5.

Period for proving fraud may be extended.

APPOINTMENT OF A CURATOR,—HIS POWERS AND DUTIES.

14. When any defendant arrested or imprisoned as aforesaid, has made and filed a statement of his property real and personal as aforesaid, and has declared himself willing to abandon the same for the benefit of his creditors, the Court or any Judge thereof, upon the application of the plaintiff, (if made within two months from the service of such statement and declaration upon the plaintiff or his Attorney, and after fifteen days' notice, in the form of the Schedule No. 1, subjoined to this Act, of the time and place of such application, previously given in the *Canada Gazette*.) may appoint, at the discretion of such Court or Judge, after hearing any parties claiming to be interested, a fit and proper person as Curator to the property so offered to be abandoned;—and of such appointment notice shall by such Curator forthwith be given (in the form of Schedule No. 2, subjoined to this Act) for the space of one month in the *Canada Gazette*, and also for any period which may be ordered by the Court or Judge, in any other newspaper or newspapers which they see fit to name.

Curator to be appointed to the property abandoned by the defendant.

Notice of appointment.

15. In case the Curator fails or delays to give such notice, then the same may be given either by the plaintiff or by the defendant;—and during the said period of four months, within which the plaintiff has it in his power to adduce evidence with respect to any omissions such as aforesaid, in the statement so made and filed by the defendant, or with respect to the defendant having secreted any part of his property within the period and with the intent aforesaid, or made any fraudulent misstatement in respect of his creditors or their claims, any other creditor of such defendant may appear in the cause in relation to which such notice has been given, and may adduce evidence and examine the defendant for the same purpose, in the same manner and with the same effect as the plaintiff in such cause under this

Opposition to the statement.

Act can adduce such evidence or examine the defendant.
12 V. c. 42, s. 6, *part*.

Effect of
statement,
&c., if no
fraud be
proved.

16. Whenever a defendant has been arrested or imprisoned, and has declared his willingness to abandon all his property, real and personal, for the benefit of his creditors, and a Curator has thereupon been appointed to take charge of such property, and public notice has been given of the appointment of such Curator within fifteen days after the same has been made, and the defendant is not adjudged guilty of any misconduct in the premises rendering him liable to punishment as hereinbefore provided, he shall not thereafter be liable to be arrested or imprisoned or detained in prison at the suit of the plaintiff by whom he was arrested, or at the suit of any other person, for or by reason of any cause of action arising before the making and filing of such statement and declaration by such defendant :

If again ar-
rested—de-
fendant on
petition may
be discharged.

2. And if such defendant is notwithstanding at any time afterwards arrested for or by reason of any such cause of action, the Court or any Judge of the Court whence the Process issued for such arrest may upon a summary petition and satisfactory proof, order him to be discharged out of custody. 12 V. c. 42, s. 8.

Powers of the
curator.

17. The powers of the Curator shall extend not only to the property real and personal comprehended in the statement made and filed by the defendant, but also to any other property real or personal of the defendant, that ought to have been comprehended in such statement :

How the pro-
perty shall be
disposed of.

2. The real estate comprehended or that ought to have been comprehended in such statement, shall be sold upon such Curator in the ordinary course of law ; and the personal property comprehended or that ought to have been comprehended in such statement shall be collected and got in by such Curator, and by him be paid over or distributed, also in the ordinary course of law. *Ibid*, s. 7.

Statement may be required of certain Defendants.

Defendant, in
certain cases,
may be called
upon for a
statement of
his property
and debts.

18. In every case in which a judgment has been rendered against a defendant for a sum amounting to or exceeding eighty dollars, exclusive of interest from the service of process and costs, in any commercial case, between merchants or traders, or for a debt due a merchant or trader for goods, wares and merchandize by him sold, such defendant shall, after the discussion of his apparent property real and personal in the ordinary course of law, within thirty days from personal service upon him of a certified copy of such judgment, together with a notice in writing (in the form of the Schedule No. 3, subjoined to this Act) demanding of him that he do make and file the statement hereinafter mentioned, —make and file in the office of the Prothonotary of the Court,

a statement under oath, making known of what property, real or personal, he is possessed, and where the same is situate, to the intent that the plaintiff may proceed and take the said property in execution, if he sees fit, and also making known the names and addresses of all the creditors of such defendant, and the amount and nature (privileged, hypothecary or otherwise) of the claim of every such creditor: 12 V. c. 42, s. 8.

2. If the defendant neglects to file such statement, or if at any time within two years after the filing of such statement, the plaintiff in the suit establishes, either by the examination of the defendant under oath or by other evidence,—that when the statement was so filed the defendant was proprietor of any chattels, effects, lands or tenements, of the value of eighty dollars, wilfully omitted from the said statement,—or that at any time between the institution of the plaintiff's action and the making of such statement on the part of the defendant, or within thirty days next preceding the institution of such action, the defendant secreted any part of his property with the intent of defrauding his creditors,—or that the defendant has made any fraudulent mis-statement in respect of his creditors or their claims,—or if the defendant fails to appear for the purpose of being examined in relation to such statement, at any time appointed for such examination by the Court or any Judge thereof, then the said Court, or any Judge thereof, in term or in vacation, shall order the defendant to be imprisoned in the common gaol of the District, for such period not exceeding one year as such Court or Judge thinks reasonable, in punishment of the misconduct of which he or they may adjudge such defendant to have been guilty. *Ibid*, s. 8, and 25 G. 3, c. 2, s. 38.

Punishment of defendant refusing to file such statement, or guilty of fraud, suppression, &c., in such statement

MISCELLANEOUS PROVISIONS.

19. All the provisions of this Act shall extend and apply to, and be held to extend and apply to, all persons who at the time of the passing of the Act 12 V. c. 42 (on the thirtieth day of May, 1849), or at any time thereafter, were or are in prison under any Writ of *Capias ad respondendum* or *Capias ad satisfaciendum*, as well to those who have surrendered in discharge of their bail, or who have been surrendered in discharge of their bail, as to others. 12 V. c. 42, s. 10.

This Act to apply to persons imprisoned the time of the passing of 12 V., c. 42.

20. Nothing in this Act or by this Act required or permitted to be done, shall have the effect of discharging any debt or debts due by any person proceeded against or taking any proceedings under this Act; but all such debts shall continue in all respects unimpaired, excepting only that the debtor shall not be liable to be arrested or imprisoned in relation to such debts, if expressly exempted from such liability by the provisions of this Act. 12 V. c. 42, s. 11.

This Act not to be construed as discharging any debt.

Act not to prevent the putting in of special bail.

21. Nothing in this Act shall prevent any person arrested under any Writ of *Capias ad respondendum*, from putting in special bail to the action, as permitted by the law of Lower Canada, excepting only that such special bail shall not be received unless put in on the return day or at any time before the return day, or within the eight days next after the return day :

Time for so doing may be extended.

But the Court may, upon special application and sufficient cause shewn, extend the time for putting in such special bail ; and the Court may also upon special application and sufficient cause shewn, allow any defendant arrested, and who has given bail for his appearance at the return of the Writ, to put in security that he will surrender himself as provided by the tenth section of this Act even after the period in that behalf prescribed by the said section. 12 V. c. 42, s. 12.

Form and effect of bail-bonds.

22. The bond to be taken by any sheriff for the appearance of any defendant arrested and holden to bail, shall be according to the form contained in the Schedule No. 4 subjoined to this Act ; and no Sheriff is or shall be held liable towards any plaintiff, at whose suit any defendant has been at any time arrested and admitted to bail by such Sheriff, if the bail taken by such Sheriff were, at the time they were taken as such bail, solvent or reputed so to be, to the amount of the sum for which the bond entered into by such bail was given. *Ibid*, s. 13, *part*.

Bail-bonds to be assignable as heretofore.

23. Nothing in this Act shall prevent any Sheriff from assigning any bail-bond by him to be taken under this Act, in the manner that bail-bonds formerly taken by any Sheriff were assignable. *Ibid*, s. 14.

ACT NOT TO EXEMPT PARTIES FROM IMPRISONMENT IN CASES OF MALVERSION, ETC.

Nothing herein to prevent *contrainte par corps* for malversation or contempt of court.

24. Nothing in this Act contained shall extend to exempt from arrest or imprisonment, any person indebted as tutor, curator, sequestrator, depository, sheriff, coroner, bailiff or other officer having charge of public moneys, or being a *caution judiciaire*, or indebted for the purchase money of any lands or tenements, goods or chattels, sold and adjudged under the authority of justice by licitation, Sheriff's sale, *décret* or otherwise, or for the amount of any condemnation money for damages arising out of personal wrongs for which *contrainte par corps* may by law be awarded, nor shall any thing herein contained prevent the issuing of any writ of execution against the person, for contempt of the process of Court or other attachment (*contrainte par corps*) of like nature, against any defendant for resistance to the process of Court (*rebellion à justice*) or for any fraudulent

evasion of any judgment or order of Court by preventing or obstructing the seizure of property in satisfaction thereof. 12 V. c. 42, s. 15,—18 V. c. 16.

SCHEDULE No. 1.

Province of Canada,)
District of)

In the Superior Court.

No. (here state the number of the action.)

A. B., Plaintiff :

vs.

C. D., Defendant.

Public Notice is hereby given, in pursuance of the provisions of Chapter eighty-seven of the Consolidated Statutes for Lower Canada, intituled : " An Act," (*here insert the title of this Act*), that at the hour of _____ in the _____ noon of _____, the _____ day of _____ next (*or instant, as the case may be*), or as soon after that hour as may be, at the Court House at _____ (*or as the case may be*), at the Chambers of the Judge, (*sufficiently describing the same*), the said A. B., Plaintiff in this cause, will apply to (*naming the Court, and indicating whether the application is to be made to such Court, or to a Judge thereof*), for the appointment of a fit and proper person to be Curator to the property, real and personal, of the said C. D., Defendant in this cause, who has made and filed in the Office of the Prothonotary of the said Court, a statement under oath of the same, and also of his Creditors and their claims, together with a declaration that he is willing to abandon his property for the benefit of his Creditors—the whole as by the said Act required.

And all persons, creditors of the said C. D., are hereby notified then and there to attend, to make to the said Court (or Judge, as the case may be) such representation or statement in the premises as they may see fit to make.

Given at _____, this _____ day of _____, 18 ____.

A. B., Plaintiff.

SCHEDULE No. 2.

Province of Canada, }
 District of }

In the Superior Court.

No. (*here state the number of the action.*)

A. B., Plaintiff;

vs.

C. D., Defendant.

and

E. F., Curator to the property and
 effects of the said Defendant.

Public Notice is hereby given, in pursuance of the provisions of Chapter eighty-seven of the Consolidated Statutes for Lower Canada, intituled: "An Act," (*here insert the title of this Act*), that on the _____ day of _____ instant (or last past *as the case may be*) the said E. F., of (*state here the address and calling of the Curator*) was, by order of (*describe here the Court or Judge in question*), appointed to be Curator of the property and effects, of every kind, real and personal, of the said C. D., Defendant in this cause, abandoned by the said C. D. for the benefit his creditors—the whole as by the said Act provided.

And all persons, creditors or debtors of the said C. D., are hereby notified and required to govern themselves in the premises accordingly.

Given at _____, this _____ day of _____, 18 ____.

E. F., Curator.

(Or A. B., Plaintiff, or C. D., Defendant, *as the case may be.*)

SCHEDULE No. 3.

To C. D., of (*state here the address and calling of the party*),

Defendant in the cause wherein the Judgment, an authentic copy whereof is hereunto affixed, has been rendered.

Take notice that the undersigned, A. B., Plaintiff in the said cause, hereby demands of you, under and by virtue of the eighteenth section of Chapter eighty-seven of the Consolidated Statutes for Lower Canada (*here insert the title of this Act*)—a copy of which section is hereunto subjoined for your further information in the premises—that, within thirty days from the personal service to be made upon you of the foregoing certified copy of the said Judgment, together with this notice, you do make and file the statement in the said section prescribed, in the manner and under the penalties therein set forth.

Done at _____, this _____ day of _____, 18 ____.

A. B., Plaintiff.

(*Here insert a copy of the said eighteenth section of this Act.*)

SCHEDULE No. 4.

Form of Bail-bond.

Know all men by these presents, that we, (*name here the Defendant and his bail.*) are held and firmly bound to (*name here the Sheriff,*) Sheriff of the District of _____, in Lower Canada, in the sum of (*state here the amount sworn to and endorsed on the Writ, with twenty-five per centum added for interest and costs,*) to be paid to the said Sheriff, or his certain attorney, executors, administrators or assigns; for which payment, to be well and faithfully made, we bind ourselves, and each of us by himself for the whole and every part thereof, and the heirs, executors, and administrators of us, and every of us, firmly by these presents, sealed with our seals, and dated this _____ day of _____, in the _____ year of the Reign of Our Sovereign Lady Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and in the year of Our Lord one thousand eight hundred and _____.

Whereas the above bounden (*name here the Defendant*) has been by the said Sheriff arrested under and by virtue of a certain Writ sued out of the Superior Court in the District of _____, at the instance of (*name here the Plaintiff,*) and to the said Sheriff in due course of law delivered;

The condition of this obligation is such that if the said (*name here the Defendant*) do on (*state here the return day of the Writ,*) or at any time previously thereto, or within eight days thereafter, give good and sufficient security to the satisfaction of the Superior Court in the said District or of any one of the Judges of the said Court, that he, the said (*name here the Defendant,*) will surrender himself into the custody of the said Sheriff whenever required so to do by any order of the said Court, or of any Judge thereof, made as by law provided, or in default thereof will pay to the said (*name here the Plaintiff*) the debt for which he, the said (*name here the Defendant,*) has been arrested as aforesaid, with interest and costs; or do on (*state here the return day of the Writ,*) or at any time previously thereto, or within eight days thereafter, put in special bail, as by law provided, to the action wherein the said Writ has been sued out as aforesaid, then this obligation shall be void and of no force, but otherwise shall stand in full force, vigor and effect.

Signed, sealed and delivered in presence of _____.



CHAP. XCV.

An Act respecting the Writ of *Habeas Corpus*, Bail, and other provisions of law for securing the Liberty of the Subject.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

IN CRIMINAL MATTERS.

Who may obtain the Writ and how.

All persons imprisoned for criminal offences entitled to a writ of *habeas corpus*.

1. All persons committed or detained in any prison within Lower Canada, for any criminal or supposed criminal offence, shall of right be entitled to demand and obtain from the Court of Queen's Bench or from the Superior Court or any one of the Judges of either of the said Courts, the writ of *habeas corpus*, with all the benefit and relief resulting therefrom, at all such times, and in as full, ample, perfect and beneficial a manner, and to all intents, uses, ends and purposes, as Her Majesty's subjects within the realm of England, committed or detained in any prison within that realm, are there entitled to that writ and to the benefit arising therefrom, by the common and statute laws thereof. 24 G. 3, c. 1, s. 1,—1 G. 4, c. 8,—7 V. c. 17, s. 15,—12 V. c. 37, s. 41,—12 V. c. 38, s. 98,—12 V. c. 40, s. 3,—20 V. c. 44, ss. 13, 35.

For preventing delays to returns to such writs.

2. And for the prevention of delays which may be used by sheriffs, gaolers, and other officers and persons to whose custody any of Her Majesty's subjects are committed or detained, for criminal or supposed criminal matters, in making returns of writs of *habeas corpus* to them directed,—Whenever any person brings any writ of *habeas corpus*, directed to any sheriff, gaoler, minister, or other person whatsoever, for any person in his custody, and the said writ is served upon the said officer, or left at the gaol or prison with any of the under officers, under keepers, or deputies of the said officers or keepers, then the said officer or officers, his or their under officers, under keepers, deputies or other persons, shall, within three days after the service thereof as aforesaid (unless the commitment was for treason or felony plainly and specially expressed in the warrant of

commitment)—upon payment or tender of the charges of bringing the said prisoner, to be ascertained by the Judge who awards the writ, and endorsed upon it, not exceeding sixty cents per league, and upon security given by his own bond, to pay the charges of bringing back the prisoner, if he is remanded by the court or judge before whom he is brought, and that he will not make any escape by the way, make return of such writ, and bring or cause to be brought, the body of the party so committed or detained unto or before one of the judges of the said court whence the writ issues, or before any other judge before whom the writ is made returnable, according to the command thereof, and shall then likewise certify the true causes of the detainer or imprisonment,—unless the commitment of the party be in any place beyond the distance of ten leagues from the place where such court or judge is or resides,—and if beyond the distance of ten leagues, and not above thirty leagues, then within the space of ten days,—and if beyond the distance of thirty leagues, and not above sixty leagues, then within the space of twenty days,—and if beyond the distance of sixty leagues, and not above one hundred leagues, then within the space of forty days.—and if beyond the distance of one hundred leagues, then within the space of three months, if from the first day of March to the twentieth of September, otherwise in the space of eight months, after such delivery and service of the writ as aforesaid, and not longer :

Mileage.

Return to be made and in what manner.

2. But if such payment or tender is not made by the person bringing the writ to the sheriff, gaoler, minister, or other person as aforesaid, such sheriff, gaoler, minister, or other person, shall return the writ with the true causes of the imprisonment or detainer, without bringing or causing to be brought the body of the person committed or detained as thereby commanded, and shall certify on the back thereof, that a default of such payment or tender is the cause why the body of the person is not brought therewith; which shall be deemed a sufficient return. 24 G. 3, c. 1, s. 2.

Body of prisoner not to be produced unless payment of charges of so doing to be made.

3. And that no sheriff, gaoler or other officer, may pretend ignorance of the import of any such writ:—all such writs shall be marked in this manner,—“*By virtue of chapter ninety-five of the Consolidated Statutes for Lower Canada,*”—and shall be signed by the person who awards the same. 24 G. 3, c. 1, s. 3,—*part*.

How writs shall be marked and signed.

4. And if any person is committed or detained as aforesaid for any crime (unless for felony or treason plainly expressed in the warrant of commitment) in the vacation time, and out of term or sessions, such person (not being convicted or in execution by legal process) or any one on his behalf, may complain to one of the Judges of the Court of Queen's Bench or Superior Court, who upon view of the copy of the warrant or warrants of commitment and detainer, or other-

Writ to be granted on view of copy of warrant, or on affidavit that such copy has been denied.

wise upon oath made, that such copy was denied to be given by the person in whose custody the prisoner is detained, shall, upon request made in writing by such person, or any one on his behalf, attested and subscribed by two witnesses present at the delivery of the same, award and grant a writ of *habeas corpus* under the seal of the court of which such judge is a member, directed to the officer or person, in whose custody the party so committed or detained is, returnable *immédiatè* before the said Judge:

Person in custody to be brought before the judge.

2. And upon service of the writ as aforesaid, the officer or his under officer or deputy, in whose custody the party is so committed or detained, shall, within the times respectively before limited, bring such prisoner before the Judge, before whom the said writ is made returnable, and in case of his absence, before any other Judge of the same court, with the return of such writ and the true causes of the commitment and detainer:

Judge to discharge prisoner and take his recognizance.

3. And thereupon, within two days after the party shall be brought before him, the Judge before whom the prisoner is brought as aforesaid, shall discharge the said prisoner from his imprisonment, taking his recognizance, with one or more surety or sureties, in any sum which shall not be excessive, according to his discretion, having regard to the quality of the prisoner and nature of the offence, for his appearance in the Court of Queen's Bench, at the next term, or general gaol delivery, in and for the district where the commitment was, or where the offence was committed, or in such other court where the offence is properly cognizable, as the case requires, and then shall certify the said writ with the return thereof, and the said recognizance into the court where such appearance is to be made,—unless it appears, unto the said Judge, that the party so committed is detained upon a legal process, order or warrant out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal, either of one of the Judges of the said Court of Queen's Bench or of the Superior Court, or of some justice of the peace, for such matters or offences for which, by the law, the prisoner is not bailable. 24 G. 3, c. 1, s. 3.

Exception.

In certain cases no writ to be granted in vacation.

5. If any person has wilfully neglected, by the space of two whole terms of the Court of Queen's Bench, in and for the district where such detention or imprisonment is, after his imprisonment, to pray a writ of *habeas corpus* for his enlargement, such person shall not have a writ of *habeas corpus* to be granted in vacation time, in pursuance of this Act. *Ibid*, s. 4.

PENALTIES AGAINST PERSONS DISOBEYING THE WRIT OR REFUSING COPIES OF COMMITMENT, ETC.

Penalty on officers refusing to make a

6. If any officer, his under officer, under keeper or deputy, or other person, neglects or refuses to make the re-

turn aforesaid, or to bring the body of any prisoner according to the command of the writ, within the respective times aforesaid, or upon demand made by the prisoner or any person in his behalf, refuses to deliver, or within the space of six hours after demand, does not deliver to the person so demanding, a true copy of the warrant or warrants of commitment and detainer of such prisoner (which he is hereby required to deliver accordingly)—such head gaoler or keeper or the person or persons in whose custody the prisoner is detained, shall, for the first offence, forfeit to the prisoner or party grieved, the sum of one hundred pounds sterling, and for the second offence, the sum of two hundred pounds sterling, and shall be incapable to hold or execute his said office :

return or produce the body or to give a copy of the commitment.

2. The said penalties may be recovered by the prisoner or party grieved, his executors or administrators against such offender, his executors or administrators, by any action of debt, suit, bill, plaint or information in the Superior Court for Lower Canada, or any other court of record having original jurisdiction within Lower Canada, wherein no privilege, protection, injunction or stay of prosecution by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed, or any imparlance or continuance for a longer period than three months ; and any recovery or judgment at the suit of any party grieved shall be a sufficient conviction for the first offence, and any after recovery or judgment at the suit of a party grieved, for any offence after the first judgment, shall be a sufficient conviction to bring the officers or person within the said penalty for the second offence. 24 G. 3, c. 1. s. 5.

How the penalties may be recovered.

OF ADMISSION TO BAIL.

7. If any person is committed for high treason or felony, plainly and specially expressed in the warrant of commitment, and upon his prayer or petition in open court, in the first week of the sessions or term of the Court of Queen's Bench, oyer and terminer, or of general gaol delivery for the district, to be brought to his trial, is not indicted some time in the next sessions or term of the Court of Queen's Bench, oyer and terminer or general gaol delivery, after such commitment, any one of the Judges of the said Court or the Judge or Judges holding the said Court, shall, upon motion made in open court on the last day of the sessions or term of the Court of Queen's Bench, oyer and terminer or general gaol delivery, either by the prisoner or any one in his behalf, set at liberty the prisoner upon bail :—unless it appears to such Judge or Judges upon oath made, that the witnesses for the Crown could not be produced during the same sessions or term or general gaol delivery :

Persons committed for treason or felony and requesting a trial in the first week of the sessions or terms shall, if not indicted in the ensuing term, be released on bail.

2. And if any person committed as aforesaid, upon his prayer in open court the first week of the sessions or term

Bail or discharge of prisoner not

tried within a certain time. of the Court of Queen's Bench, oyer and terminer and general gaol delivery, held in and for the district where such person is committed, to be brought to his trial, is not indicted and tried the second sessions or term of the Court of Queen's Bench, oyer and terminer and general gaol delivery after his commitment, or upon his trial is acquitted, he shall be discharged from his imprisonment. 24 G. 3, c. 1, s. 8.

Recital.

Persons charged as accessories before the fact to felony not bailable otherwise than according to law.

8. And because many times, persons charged with felony, or as accessories thereunto, are committed upon suspicion only, whereupon they are bailable or not, according as the circumstances making out that suspicion are more or less weighty, which are best known to the justices of the peace who may have committed such persons and have the examinations before them, or to other justices of the peace in the district where such prisoners are committed :—therefore, where any person appears to be committed by any judge or justice of the peace, and charged as accessory before the fact to any felony, or upon suspicion thereof, or with suspicion of felony, which felony is plainly and specially expressed in the warrant of commitment, such person shall not be removed or bailed by virtue of this Act in any other manner than by the common law of England he may be. 24 G. 3, c. 1, s. 17,—4, 5 V. c. 27, s. 2.

Recital.

To prevent collusive evasion of trial.

9. And to the intent that no person may avoid his trial at the sessions or term of the Court of Queen's Bench, oyer and terminer or general gaol delivery, by procuring his removal before the sessions or term of the said court in and for the district where he is committed, at such time that he cannot be brought back to receive his trial there ;—Within such period before the sessions or term of the Court of Queen's Bench, as that he cannot be so brought back for trial as aforesaid, or after the sessions of oyer and terminer or general gaol delivery, proclaimed or advertised for the district where the prisoner is detained, no person shall be removed from the common gaol of the district upon any *habeas corpus* granted in pursuance of this Act, but upon any such *habeas corpus*, shall be brought before the Judge or Judges holding the said court, in open court, who shall thereupon do what to justice appertains :

Proviso.

2. But after the sessions are ended, any person detained in any common gaol may have his writ of *habeas corpus* according to the direction and intention of this Act. 24 G. 3, c. 1, ss. 15, 16.

But nothing herein to affect civil proceedings.

10. Nothing in this Act shall extend to discharge out of prison any person charged in debt or other action, or with process in any civil cause, but after he is discharged from his imprisonment for such criminal offence, he shall be kept in custody according to the law for such other suit. 24 G. 3, c. 1, s. 9.

EFFECT OF LIBERATION ON HABEAS CORPUS.

11. And for preventing unjust vexation by reiterated commitments for the same offence,—no person, delivered or set at large upon *habeas corpus*, shall, at any time thereafter, be again imprisoned or committed for the same offence by any authority whatsoever other than the legal process and order of the court wherein he is bound by recognizance to appear, or other court having jurisdiction of the cause :

Effect of
release on
habeas corpus.

2. And if any person, knowingly, contrary to this Act, recommit, or imprisons, or knowingly procures or causes to be recommit, or imprisoned, for the same offence or pretended offence, any person delivered or set at large as aforesaid, or knowingly aids or assists therein, then he shall forfeit to the prisoner or party grieved, the sum of five hundred pounds, lawful money of Great Britain, to be recovered as aforesaid, any colourable pretence or variation in the warrant or warrants of commitment notwithstanding. 24 G. 3, c. 1, s. 7.

Penalty for
recommitting
any one so
released for
the same
offence.

12. If any subject of Her Majesty is committed to any prison or in custody of any officer or officers whomsoever, for any criminal or supposed criminal matter, such person shall not be removed from the said prison and custody into the custody of any other officer or officers—unless it be by *habeas corpus* or some other legal writ—or where the prisoner is delivered to the constable, bailiff, or other inferior officer to carry such prisoner to some common gaol,—or where any person is sent by order of any judge of a court of criminal jurisdiction, or justice of the peace to any common workhouse or house of correction,—or where the prisoner is removed from some one prison or place to another within the same district, in order to his trial or discharge in due course of law,—or in case of sudden fire or infection, or other necessity,—or under some express provision of this Act or of any other Act or Law :

Under what
circumstan-
ces only a pri-
soner may be
removed from
one prison to
another.

2. And if any person, after such commitment aforesaid, makes out and signs or countersigns any warrant or warrants for such removal aforesaid, contrary to this Act, as well he that makes or signs or countersigns such warrant as any officer who obeys or executes the same, shall suffer and incur the pains and forfeitures in this Act before mentioned, both for the first and second offence respectively, to be recovered by the party grieved in manner aforesaid. *Ibid*, s. 6 ; And see Con. Stat. Can. cc. 107, 108, 111, &c.

Penalty on
persons con-
travening this
section.

13. But if the sheriff of any district deems any gaol therein unsafe for the custody of prisoners, or over crowded, he shall report the fact to the Governor, who may authorize the removal of the prisoners in such gaol, or any of them, to any other gaol in Lower Canada, there to be kept until

The Governor
in certain
cases may
authorize the
transfer of
prisoners from
one gaol to
another.

discharged in due course of law, or until they are again brought back to the gaol from which they were so removed, either for trial at the proper court, or to be again kept in such gaol when it has been made safe or is not over crowded :

How such authorization shall be conveyed—effect thereof.

2. And a letter from the Provincial Secretary, authorizing the removal or the bringing back of any such prisoners, shall be sufficient, and by virtue thereof and of this Act, the sheriff may remove or bring back such prisoners, as the case requires, and he or his deputies shall, while so doing, have the same powers with regard to them in the district to which they are conveyed, and in any district through which he passes with them, as he would have in his own district ; and the sheriff and gaoler of the district, to the gaol in which they are conveyed, and their deputies, shall have the same powers with respect to them from the time of their delivery to such sheriff or gaoler, as they would have if such prisoners had been originally committed to the gaol in such last mentioned district. 20 V. c. 44, s. 137.

If commitment be in a district other than that in which the offence is to be tried.

14. If the commitment of any person, who has committed any crime or offence, be in a district other than that in which the offence is to be tried, the Judges of the Court of Queen's Bench or of the Superior Court, or any one of them, upon application of Her Majesty's Attorney or Solicitor General, and in default of such application, upon the application of such offender, shall issue a writ of *habeas corpus*, commanding the keeper of the gaol in which such offender is so imprisoned, to have the body of such offender before them or any one of them, at a convenient time and place to be specified in such writ, together with the true cause of his commitment and detainer :

Judges by *habeas corpus* to obtain removal of prisoner to the gaol of the district in which the trial is to be had.

2. And if it then appears that such offender is detained upon such commitment as aforesaid, for any crime or offence committed in another district, the Judges of each of the said courts, or any one of them, before whom such writ of *habeas corpus* is made returnable, shall take course for the immediate removal of such offender to the common gaol of the district in which the trial of such offender for such crime or offence is to be had, by warrant under his or their hands and seals, directed to the keeper of the gaol and to the Sheriff of the district in which such offender is so imprisoned, and to the keeper of the gaol of the district in which the trial of such offender is to be had, authorizing the deliverance of the body of such offender from the gaol of the district in which such offender is so imprisoned, and commanding the sheriff of such district to remove the body of such offender forthwith, with all care and diligence, to the gaol of the district in which the trial of such offender is to be had, and commanding the keeper of the gaol of the district in which the trial of such offender is to be had, to receive such offender into his custody in the gaol of the said

district, there to remain till he be thence delivered in due course of law, which warrant the said sheriff and the keepers of such gaol as aforesaid shall execute. 35 G. 3, c. 1, s. 5, — 20 V. c. 41, s. 30.

PRISONERS NOT TO BE SENT OUT OF LOWER CANADA EXCEPT
IN CERTAIN CASES.

15. And for preventing illegal imprisonments in prisons without Lower Canada, or beyond the seas :—

1. No subject of Her Majesty, being an inhabitant or resident of Lower Canada, shall be sent prisoner into any province, or in any state or place without the Province of Canada, or into any parts, garrisons, islands or places beyond the seas, within or without the dominions of Her Majesty, and every such imprisonment or transportation is hereby declared illegal :

Inhabitants of L. C. not to be sent prisoners elsewhere.

2. And any such subject so imprisoned may, for every such imprisonment, maintain, by virtue of this Act, an action or actions of false imprisonment against the person by whom he has been so committed, detained, imprisoned, sent prisoner or transported, contrary to this Act, and against any person framing, contriving, writing, sealing or counter-signing any warrant or writing for such commitment, detainer, imprisonment or transportation, or advising, aiding or assisting in the same, or any of them :

In such case prisoner may maintain an action of false imprisonment.

3. And the plaintiff in every such action shall have judgment to recover his treble costs besides damages, which damages so to be given shall not be less than five hundred pounds, lawful money of Great Britain, in which action no delay, stay or stop of proceeding by rule, order or command, nor any injunction, protection or privilege whatsoever, nor any more than one imparlance or continuance (according to the practice of the court) shall be allowed, excepting such rule of the court wherein the action depends, made in open court, as is thought in justice necessary, for special cause to be expressed in said rule : 24 G. 3, c. 1, s. 11.

Plaintiff in such case to have treble costs, besides damages.

4. But nothing in this Act shall extend to give such benefit to any person who, by contract in writing, agrees with any merchant or owner of any plantation or other person whatsoever, to be carried to any province or to parts beyond the seas, and receives earnest upon such agreement, although that afterwards such person renounces such contract : 24 G. 3, c. 1, s. 12.

This Act not to extend to persons carried away by their own agreement.

5. And nothing in this Act shall impair the effect of any provision in the Consolidated Statutes of Canada, or in any Act applying to the whole Province of Canada, but this Act shall always be construed, subject to every such provision.

Not to affect any law applying to all Canada.

OF THE REMOVAL OF AN OFFENDER TO ANOTHER PART OF HER
MAJESTY'S DOMINIONS, WHERE HE HAS COMMITTED A
CRIMINAL OFFENCE—TO UNDERGO HIS TRIAL.

Persons charged with a capital offence, out of Lower Canada, may be sent for trial to the place where the offence was committed in H. M. Dominions.

16. But if any person, at any time resident within Lower Canada, has committed any capital offence in Great Britain, Ireland or any province, island or plantation of Her Majesty, where he ought to be tried for such offence, such person may be sent to such place, there to receive such trial, in such manner as the same might have been done by the common laws of England before the twenty-ninth day of April, 1784, anything herein contained to the contrary notwithstanding. 24 G. 3, c. 1, s. 14.

Persons against whom warrants have issued in New Brunswick may be apprehended in Lower Canada.

17. And whereas it may happen that felons and other malefactors, having committed crimes in the Province of New Brunswick, may escape into Lower Canada. and their offences thereby remain unpunished, for want of a provision by law for apprehending such offenders in this Province, and transmitting them to the place in which their offences were committed:—therefore,—if any person, against whom a warrant is issued by any other judge of the Court of Queen's Bench, or any justice of the peace, acting in the Province of New Brunswick, for any crime or offence against the laws of the said Province, escapes, comes into, resides or is in any part of Lower Canada, any justice of the peace of the district or place, where such person escapes, comes into, resides or is, may endorse his name on the said warrant, (due proof being first made of the hand-writing of the magistrate issuing the same,) which warrant so endorsed shall be a sufficient authority to the person bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all constables of the district or place where such warrant is so endorsed, to execute the same by apprehending the person against whom such warrant is granted, and to convey him to the said Province of New Brunswick, and before one of the justices of the peace acting in the said Province, to be there dealt with according to law. 36 G. 3, c. 12.

PENALTY ON JUDGES REFUSING THE WRIT OF HABEAS CORPUS
IN VACATION.

Penalty on judge refusing *habeas corpus*.

18. Any prisoner may move for and obtain his writ of *habeas corpus* out of the Court of Queen's Bench or the Superior Court as hereinbefore provided, before any judge of either Court, in vacation as well as in term,—and if any judge of the said Court of Queen's Bench or Superior Court, in the vacation time, and upon view of the copy or copies of the warrant or warrants of commitment or detainer, or upon oath made that such copy or copies were denied as aforesaid, denies any *habeas corpus* by this Act required to be granted (being moved for as aforesaid,) every such Judge

shall severally forfeit to the prisoner or party grieved the sum of five hundred pounds sterling, to be recovered in manner aforesaid. 24 G. 3, c. 1, s. 10,—12 V. c. 37, s. 41,—12 V. c. 38, s. 98.

ACTIONS FOR OFFENCES AGAINST THIS ACT.

19. No person shall be sued, impleaded, molested or troubled, for any offence against this Act, unless the party offending be sued or impleaded for the same within two years, at the most, after the offence committed, in case the party grieved is not then in prison, and if he is in prison, then within the space of two years after the decease of the person imprisoned, or his delivery out of prison whichever first happens :

Limitation of actions for offences against this Act.

2. And if any information, suit or action, is brought or exhibited against any person for any offence committed against this Act, such defendant may plead the general issue, that he is not guilty, or that he owes nothing, or may plead specially, according as may be the course and practice of the Court where such suit may be; and in case it be upon the said plea of not guilty, or that he owes nothing, then he may give such special matter in evidence, which, if it had been pleaded more specially, would have been good and sufficient matter of law to discharge the said defendant against the said information, suit or action; and the said matter so given in evidence under either of the said general pleas, shall be then and there as available to him to all intents and purposes, as if he had sufficiently pleaded, set forth or alleged the same matters in bar or discharge of such information, suit or action :

Defendant in such suit may plead the general issue.

3. But nothing in this section shall prevent the effect of any Act fixing a shorter period as that within which any suit or proceeding must be brought against any justice of the peace or other public officer, for any act done in the discharge of his public duty. 24 G. 3, c. 1, ss. 18, 19;—See 14, 15 V. c. 54, ss. 1, 8, 9,—12 V. c. 10, s. 5, *par.* 20.

But this section not to affect any Act fixing the period for bringing suits against public officers.

HABEAS CORPUS AD SUBJICIENDUM IN CIVIL MATTERS.

20. When any person is confined or restrained of his liberty, otherwise than for some criminal or supposed criminal matter, any one of the Judges of the Court of Queen's Bench or of the Superior Court, shall, upon complaint made to him by or on behalf of the person so confined or restrained,—if it appears by affidavit (or affirmation in cases where by law an affirmation is allowed,) that there is a probable and reasonable ground for such complaint,—award, in vacation time, a writ of *habeas corpus ad subjiciendum*, under the seal of the court where he is one of the judges, to be directed to the person in whose custody or power the party so confined or restrained is, returnable *immediate*,

Writ of *habeas corpus ad subjiciendum* may be awarded in vacation.

before the judge awarding the same, or before any other judge of the court under the seal of which the said writ is issued. 52 G. 3, c. 8, s. 1,—1 G. 4, c. 8,—7 V. c. 17, ss. 14, 15,—12 V. c. 37, s. 41,—12 V. c. 38, s. 98,—12 V. c. 40, s. 3, and 20 V. c. 44, ss. 13, 35.

Disobedience to such writ to be deemed a contempt of court.

21. If the person to whom any such writ of *habeas corpus* is directed,—upon service of such writ, either by the actual delivery thereof to him, or by leaving the same at the place where the party is confined or restrained, with any servant or agent of the person so confining or restraining,—wilfully neglects or refuses to make a return or pay obedience thereto, he shall be deemed guilty of a contempt of the court under the seal whereof such writ issues, and the judge, before whom such writ is returnable, upon proof made of such service, may award, in vacation, process of contempt under the seal of such court, against the person guilty of such contempt, returnable before himself in the vacation time, who shall proceed thereon as to law and justice shall appertain :

In certain cases the writ may be made returnable at a day certain in the next term or vacation.

2. But if such writ of *habeas corpus* is awarded so late in the vacation by any judge that, in his opinion, obedience thereto cannot be conveniently paid during such vacation, the same shall, at his discretion, be made returnable in the court under the seal whereof the writ issues, at a day certain in the next term, and the said court shall proceed thereupon, and award process of contempt in case of disobedience thereto, in like manner as if such writ of *habeas corpus* had been originally awarded by such court; and if such writ of *habeas corpus* is awarded (as it may be upon such complaint and affidavit as aforesaid) by the said Court of Queen's Bench or by the Superior Court, in term but so late that in the judgment of the court awarding such writ, obedience thereto cannot be conveniently paid during such term, the same shall, at the discretion of the court so awarding such writ, be made returnable at a day certain in the then next vacation, before any judge of the court so awarding such writ, who shall proceed thereupon in such manner as by the three following sections of this Act is directed concerning writs of *habeas corpus* issuing in and made returnable during vacation. 52 G. 3, c. 8, s. 2.

Judgment and other Proceedings.

Judge to examine as to the truth of the facts set forth in the return.

22. In the cases provided for by the two next preceding sections, although the return to the writ of *habeas corpus* be good and sufficient in law, the judge before whom such writ is returnable, shall, as soon as conveniently may be, proceed to examine into the truth of the facts set forth in such return and into the cause of such confinement or restraint, by affidavit, (or by affirmation, in cases where an affirmation is allowed by law,) and shall do therein as to justice shall appertain :

2. And if such writ is returned before one of the said judges in vacation, and it appears doubtful to him, on such examination, whether the material facts set forth in the said return, or any of them, be true or not, in such case such judge may let to bail the person confined or restrained, upon his entering into recognizance with one or more sureties, or in case of infancy or coverture, upon security by recognizance in a reasonable sum, to appear in the court under the seal whereof such writ has issued, upon a day certain in the term then next following, and so from day to day, as such court shall require, and to abide such order as such court shall make in and concerning the premises :

And if there be doubt as to truth of the facts, the judge may let the party confined to bail.

3. And such judge shall transmit into the court under the seal whereof such writ issued, the said writ of *habeas corpus* and return, together with the recognizance, affidavits and affirmations ; and such court thereupon shall proceed, order and determine touching the discharge or bailing or remanding such person so confined or restrained as to justice appertains, either in a summary way by affidavit or affirmation, or by directing one or more issues for the trial of the facts set forth in such return or any of them, whereupon such proceedings shall be had as in cases of issues directed by Her Majesty's Court of Queen's Bench in England, under the laws in force there on the nineteenth day of May, 1812. 52 G. 3, c. 8, s. 3.

Judge then to transmit to the court whence is issued.

23. The like proceedings shall be had in term in the Court of Queen's Bench and Superior Court respectively, for controverting the truth of the return to all writs of *habeas corpus* awarded for or on behalf of any person confined or restrained of his or her liberty, otherwise than for some criminal or supposed criminal matter, by affidavit, affirmation or otherwise, although such writ be awarded by the court or be returnable therein. *Ibid*, s. 4.

Like proceedings to be had in all the courts for controverting the truth of the return.

24. The court or judge proceeding on any writ of *habeas corpus ad subjiciendum*, awarded in cases of confinement not for criminal or supposed criminal matter, may make such order in regard to the payment of the charges and expenses of bringing up the party so confined or restrained, and for carrying him or her back to his or her place of confinement or restraint, in case of remanding, as to such court or judge, upon examination thereof, seems meet, and may, for non-payment thereof, award process of contempt, whereupon such proceedings shall be had as in other cases of contempt for non-payment of costs. 52 G. 3, c. 8, s. 5.

Court, &c., may make order for expenses of bringing up the party concerned.

25. Nothing in the five next preceding sections contained shall extend to discharge out of prison any person charged in debt or other action, or with process in any civil suit. *Ibid*, s. 6.

Last five sections not to apply to persons charged in debt.

CERTAIN PROVISIONS TO APPLY TO WRITS ISSUED
UNDER THE ENGLISH ACT.

The said sections to apply to writs issued under the Act 31st Charles II;

Or under certain sections of this Act.

26. The several provisions made by the last mentioned sections of this Act, touching the making writs of *habeas corpus* issuing in time of vacation returnable in the aforesaid several Court of Queen's Bench, or Superior Court, or for making such writs awarded in term time returnable in vacation, as the case may respectively happen, and also for awarding process of contempt in time of vacation against the person or persons neglecting or refusing to make return of such writs or to pay obedience thereto, shall extend to all writs of *habeas corpus* awarded in pursuance of the Act passed in the thirty-first year of King Charles the Second, intituled : *An Act for the better securing the liberty of the subject and for prevention of imprisonment beyond seas*, and of the foregoing sections of this Act respecting the obtaining of writs of *habeas corpus* in criminal matters in as ample and beneficial a manner as if such writs and the said cases arising thereon, had been hereinbefore especially named and provided for. *Ibid*, s. 7.

GENERAL PROVISIONS APPLYING BOTH TO CIVIL
AND CRIMINAL CASES.

When there is no judge in any district, *habeas corpus* may be obtained in another district.

27. If at any time there is no Judge within the limits of a District, any person desirous of obtaining a writ of *habeas corpus*, may apply to any Judge qualified and authorized to grant such writ, in any adjoining District, or to any Judge at either of the Cities of Quebec or Montreal, according as cases in appeal from the District in which the applicant is confined, are, under the twenty-second section of chapter seventy-seven of these Consolidated Statutes, to be heard and determined at either of those Cities; and any order given on any such application by a Judge out of the District, and all proceedings out of the District, had either before or after such application or order, shall be as good and valid as if given or had within the limits of the District in which the applicant is confined :

Provision when the person confined is beyond the limits of the district where the order is made.

2. And whenever the issuing of a Writ of *habeas corpus* is ordered in favor of a person confined beyond the limits of the District in which such order is made, the Judge may direct that such person be brought before a Justice of the Peace in the District in which such person is confined, and may order such Justice of the Peace to admit to bail the person so confined, himself and two sureties, each in respective sums to be specified in the said order, in which there shall be stated the terms and conditions to be inserted in the recognizance to be so entered into by the party accused and his sureties, and the Court, place and time before and at which the party accused shall appear to answer the charge brought against him; and upon such recognizance being entered into, to the satisfaction of such Justice of the Peace,

he shall order the party accused to be released from custody, if detained for no other cause; and in any case in which the applicant is to be discharged without bail, the Judge's order to the Justice of the Peace shall require him to discharge such applicant from confinement. 23 V. c. 57, s. 26.

28. Whenever a writ of *habeas corpus* has been once refused by any one Judge, it shall not be lawful to renew the application before him, unless any new facts are stated, or before any other Judge; but application may, in any such case, be made anew to the Court of Queen's Bench, which is hereby authorized to entertain, hear, and determine such application, at its next sitting in appeal either in Quebec or Montreal, according as cases in appeal from the District in which the applicant is confined are, under the said twenty-second section of chapter seventy-seven, to be heard and determined at either of those Cities; and any order made by the Court of Queen's Bench, on any such application, and all proceedings had out of the District, either before or after such application or order, shall be as good and valid as if made or had within the limits of the District in which the applicant is confined:

Habeas corpus refused by one judge not to be granted by another,—but may be granted by Court of Q. B.

2. And whenever the issuing of a Writ of *habeas corpus* is ordered in favor of a person confined beyond the limits of the District in which such order is made, the Judge or the Court of Queen's Bench may direct that such person be brought before a Justice of the Peace in the District in which such person is confined, and may order such Justice of the Peace to admit to bail the person so confined, himself and two sureties in such respective sums as shall be specified in such order, in which there shall be stated the terms and conditions to be inserted in the recognizance to be entered into by the party accused and his sureties, and the Court, place and time, before and at which the party accused is to appear to answer the charge brought against him; and upon such recognizance being entered into, to the satisfaction of such Justice of the Peace, he shall order the party accused to be released from custody, if detained for no other cause; and in any case in which the applicant is to be discharged without bail, the order to the Justice of the Peace shall require him to discharge such applicant from confinement. 23 V. c. 57, s. 27.

Provision when the person confined is beyond the limits of the district where the order is made.

INTERPRETATION.

29. The word "Judge," in this Act, includes the Chief Justice,—the word "Officer" or the designation of any person by his name of office, includes any number of persons holding or exercising such office,—and the Interpretation Act shall be so applied in construing this Act as best to secure the liberty of the subject.

Interpretation.



CHAP. CVIII.

An Act concerning the limitation in general of penal actions.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

If the forfeiture is to the Crown only to be brought within two years.

1. All actions, suits or informations brought or laid in Lower Canada for any forfeiture on any penal statute or law, whereby the forfeiture is limited to Her Majesty, Her Heirs or Successors only, shall be brought within two years next after the offence committed against such penal statute or law, and not afterwards:

One year where suit is limited to the Crown, and any one in the Crown's behalf.

2 All actions, suits or informations brought or laid for any forfeiture upon any penal statute or law, the benefit and suit whereof is by such statute or law limited to Her Majesty, Her Heirs or Successors, and to any other person who may prosecute in that behalf, shall be brought or laid by such other person as aforesaid, within one year next after the offence committed and not afterwards, and in default of any action or suit by such person, then the same shall be brought for Her Majesty, Her Heirs or Successors, at any time within two years after that year ended:

Suits brought after time limited to be void.

3. If any action, suit or information for any offence against any penal statute or law, is brought or laid after the time in that behalf limited, then the same shall be void.
52 G. 3, c. 7, s. 1.

This Act to apply only to cases for which no other provision is made.

2. The foregoing section applies only to cases in which no other provision is made by law, and nothing herein contained shall prolong or extend in any manner the time or delay for the commencement of any action, suit or prosecution in virtue of any penal statute which fixes or prescribes a shorter time than that hereby limited. *Ibid*, s. 2.

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ACTS

OF THE LATE

PROVINCE OF CANADA,

SUBSEQUENT TO THE

CONSOLIDATED STATUTES.

23 VIC., CHAP. 2.

An Act respecting the sale and management of the
Public Lands.

[Assented to 23rd April, 1860.]

HER Majesty, by and with the advice and consent of the Preamble.
Legislative Council and Assembly of Canada, enacts
as follows :—

1. There shall continue to be and be a Department for the Department and Commis-
management and sale of the Public Lands and Forests, to be sioner of
called "The Department of Crown Lands;" and the same Crown
shall be presided over by "The Commissioner of Crown Lands.
Lands," for the time being.

2. There shall continue to be an "Assistant Commis- Assistant
sioner of Crown Lands," who shall be appointed, from time Commission-
to time as a vacancy occurs, by the Governor in Council, er of Crown
and shall perform such duties in the said Department as Lands—his
may be assigned to him by the Governor in Council or the appointment,
Commissioner of Crown Lands, and shall preside over the duties and
Department and discharge therein the duties of the Com- oath of office.
missioner of Crown Lands, in the absence of that officer or
in the case of a vacancy in the office of Commissioner, and
shall, before entering on the duties of his office, take an oath
faithfully to discharge the same, which oath shall be admin-
istered by the Commissioner of Crown Lands, or any person
by the Governor for that purpose appointed.

COMMISSIONER AND OFFICERS OF DEPARTMENT.

3. The Department and Office of the Surveyor General of Departments
this Province shall continue to be consolidated with the of Surveyor-
General and

Commission-
er of Crown
Lands consol-
idated.

Department and Office of the Commissioner of Crown Lands,
under the superintendence and management of the last
named Officer,

Powers and
duties of the
Surveyor-
General to be
exercised and
performed by
the Commis-
sioner of
Crown Lands.

4. All the powers and duties which, before the seven-
teenth day of March, 1845, were assigned to or vested in the
Surveyor General, shall be vested in the Commissioner of
Crown Lands; and the said powers and duties shall be ex-
ercised and performed by him, or by any Assistants or Clerks
in his Department or Office, or by any person whom he, by
an instrument in writing under his hand, authorizes to that
effect, and under such name or designation of office as he
may fix, as effectually as they might before the said day
have been exercised or performed by the Surveyor General.

Governor
may appoint
officers and
agents under
this Act.

5. The Governor may, from time to time, appoint Officers
and Agents to carry out this Act and Orders in Council
under it, which Officers and Agents shall be paid in such
manner and at such rates as the Governor in Council may
direct.

Commission-
er, Assistant
Commission-
er and agents
to give se-
curity.
Proviso.

6. The Governor in Council shall require from the Com-
missioner of Crown Lands and from the Assistant Commis-
sioner, and from every Agent appointed under him, security
for the due performance of his duty; Provided, that all
securities given under any repealed Act shall nevertheless
continue in full force.

Purchase,
&c., by agent
of land, &c.,
in his agency
to be void,
and agent to
forfeit his
office and
\$400.

7. No County or Resident Agent for the sale of Public
Lands shall, within his division, directly or indirectly, un-
less under an Order of the Governor in Council, purchase
any land which he is appointed to sell, or become proprietor
of or interested in any such land, during the time of his
agency, and any such purchase or interest shall be void;
and if any such Agent offends in the premises, he shall for-
feit his office and the sum of four hundred dollars for every
such offence, to be recovered in action of debt by any per-
son who may sue for the same.

Commission-
er to report
annually to
the Legisla-
ture.

8. The Commissioner of Crown Lands shall annually lay
before the Legislature, and within ten days after the meeting
thereof, a report of the proceedings, transactions and affairs
of the Department during the year then next preceding.

EXTENT OF THIS ACT—ORDERS IN COUNCIL FOR CARRYING IT OUT.

Provisions of
this Act may
be extended to
Indian lands
by Order in
Council.

9. The Governor in Council may, from time to time, de-
clare the provisions of this Act, or any of them, to apply to
the Indian lands under the management of the Chief Super-
intendent of Indian affairs, or to the Jesuits' Estates,
Crown Domain or Seignory of Lauzon; and the said Chief

Superintendent of Indian affairs shall, in respect to the said Indian lands so declared to be subject to this Act, have the same powers as the Commissioner of Crown Lands has in respect to Crown Lands.

10. The Governor in Council may, from time to time, make such Orders as are necessary to carry out the provisions of this Act according to their obvious intent, or to meet cases which may arise and for which no provision is made by this Act;—and such Orders shall be published in the Official Gazette, and in such newspapers as the Commissioner of Crown Lands may direct, and shall be laid before the Legislature within the first ten days of the session next after the date thereof; but no such Order shall be inconsistent with this Act, save that the powers herein given to the Commissioner of Crown Lands may be exercised by the Governor in Council, and shall be subject to any Order in Council regulating or affecting the same from time to time.

Governor in Council may make orders for carrying out this Act.

Proviso.

FREE GRANTS LIMITED.

11. Except as hereinafter provided, no free grant of Public Land shall be made.

Free grants limited.

12. Any claim to land arising under any Act or under any Order in Council or other regulation of the Government heretofore in force, shall be determined by the Commissioner of Crown Lands, subject to such arrangement and order in respect to improvements on any particular lands as the Commissioner may think just; or the same may be satisfied by issuing, to the party entitled, Land Scrip, or a certificate entitling him to purchase land to such an amount as the Commissioner of Crown Lands may find just; but no claim for land arising from Militia, United Empire Loyalist, or Military Rights, shall be entertained unless the same was actually located or admitted, or proof in support thereof sufficient, in the opinion of the Commissioner of Crown Lands, furnished, before the passing, on the fourteenth of June, eighteen hundred and fifty-three, of the Act sixteenth Victoria, chapter one hundred and fifty-nine; and all land scrip or certificates entitling parties to purchase land issued prior to the passing of the said Act, shall be recognized and redeemed, in land or as payment for land, provided that such scrip and certificates be presented and established in the office of the Commissioner of Crown Lands before the first day of January, one thousand eight hundred and sixty-two.

Determination of claim arising under repealed Acts, Orders in Council, &c.

Proviso.

13. The Governor in Council may appropriate any Public Lands as free grants to actual settlers upon or in the vicinity of any Public Roads opened through the said lands in any new settlements, under such regulations as shall from time

Free grants may be made to settlers on or near roads in new settlements.

to time be made by Order in Council; but no such free grant shall exceed one hundred acres.

Lands may be set apart for certain public purposes and free grants thereof made in trust.

14. The Governor in Council may set apart and appropriate such of the Crown Lands as he deems expedient for the sites of Wharves or Piers, Market Places, Gaols, Court Houses, Public Parks or Gardens, Town Halls, Hospitals, Places of Public Worship, Burying Grounds, Schools, and for purposes of Agricultural Exhibitions, and for other like public purposes, and for Model or Industrial Farms; and at any time before the issue of Letters Patent therefor, may revoke such appropriation as seems expedient;—and may make free grants for the purposes aforesaid, the trust and uses to which they are to be subject being expressed in the Letters Patent;—but no such grant shall be for more than ten acres in any one instance and for any one of the purposes aforesaid, except for a Model or Industrial Farm, which shall not exceed one hundred acres.

Proviso.

SALES AND LICENSES OF OCCUPATION AND ASSIGNMENT THEREOF.

Governor in Council may fix price, &c., of lands.

15. The Governor in Council may, from time to time, fix the price per acre of the public lands, and the terms and conditions of sale and of settlement and payment.

Licenses of occupation to be issued to intending settlers—their effect.

16. The Commissioner of Crown Lands may issue, under his hand and seal, to any person who has purchased or may purchase or is permitted to occupy or has been entrusted with the care or protection of any public land, or who has received or been located on any public land as a free grant, an instrument in the form of a License of Occupation; and such person, or the assignee, by an instrument registered under this or any former Act, providing for registration in such cases, may take possession of and occupy the land therein comprised, subject to the conditions of such License, and may thereunder, unless the same shall have been revoked or cancelled, maintain suits in law or equity against any wrongdoer or trespasser, as effectually as he could do under a Patent from the Crown;—and such License of Occupation shall be *primâ facie* evidence for the purpose of possession by such person, or the assignee under an instrument registered as aforesaid, in any such suit; but the same shall have no force against a License to cut timber existing at the time of the granting thereof.

As to prior licenses to cut timber.

Licenses of occupation, certificates, receipts and location tickets heretofore issued to have the same effect.

17. Every License of Occupation heretofore granted, and every certificate of sale or receipt for money received on the sale of Public Lands, and every location ticket heretofore granted or made by the Commissioner of Crown Lands or any Agent of his, so long as the sale or grant to which such license of occupation, receipt, certificate, or location ticket

relates is in force and not rescinded, shall have the same force, and shall enure to the benefit of the party to whom the same was granted, or to the assignee, by instrument registered as aforesaid, in the same manner and to the same extent as the instrument in the form of a License of Occupation mentioned in the next preceding section.

18. The Commissioner of Crown Lands shall keep a book for registering (at the option of the parties interested) the particulars of any assignment made as well by the original nominee, purchaser or locatee or lessee of public lands or his heir or legal representative, as by any subsequent assignee of any such public lands or the heir or legal representative of such assignee;—and upon such assignment being produced to the Commissioner, with an affidavit of due execution thereof, and of the time and place of such execution, and the names, residences and occupations of the witnesses, or as regards lands in Lower Canada upon the production of such assignment executed before Notaries, or before one Notary and two witnesses, or of a notarial copy thereof, the said Commissioner shall cause the material parts of every such assignment to be registered in such book of registry, and shall cause to be endorsed on every such assignment a certificate of such registration, to be signed by himself or the Assistant Commissioner or any officer of the department by him authorized to sign such certificates;—and every such assignment so registered shall be valid against any one previously executed, but subsequently registered or unregistered; but all assignments to be registered must be unconditional; and all the conditions of the sale, grant or location must have been complied with, or dispensed with by the Commissioner of Crown Lands, before such registration is made:

Commissioner to keep a register of assignments of claims to lands; on what proof entries shall be made therein, their effect, &c.

First registered assignment to be valid.

Proviso.

2. If any subscribing witness to any such assignment is deceased, or has left the Province, the said Commissioner may register such assignment upon the production of an affidavit proving the death or absence of such witness and his handwriting, or the handwriting of the party making such assignment.

On what proof assignment may be registered when witness dead or absent.

19. On any application for a patent by the heir, assignee or devisee of the original nominee of the Crown, the Commissioner of Crown Lands may receive proof in such manner as he may direct and require in support of any claim for a patent when the original nominee is dead, and upon being satisfied that the claim has been equitably and justly established, may allow the same and cause a patent to issue accordingly; but nothing in this section shall limit the right of the party claiming a patent to make his application at any time to the Commissioners under the *Act respecting claims to Lands in Upper Canada for which no Patents have issued*.

Commissioner may receive proof in support of claim for patent by heir, &c., of deceased nominee.

Power to apply to heir and devisee Commissioners reserved.

FORFEITURE OF CLAIMS, AND ENFORCEMENT OF FORFEITURE.

Sale, &c., of land, may be cancelled in case of fraud or error.—All such cancellation heretofore made to continue.

20. If the Commissioner of Crown Lands is satisfied that any purchaser, grantee or locatee or lessee of any public land, or any assignee claiming under or through him, has been guilty of any fraud or imposition, or has violated any of the conditions of sale, grant, location or lease, or of the License of Occupation, or if any such sale, grant, location or lease or License of Occupation has been or is made or issued in error or mistake, he may cancel such sale, grant, location, lease or license, and resume the land therein mentioned, and dispose of it as if no sale, grant, location or lease thereof had ever been made; and all such cancellations, heretofore made by the Governor in Council, or the Commissioner of Crown Lands, shall continue until altered.

Mode of obtaining possession, if settler refuses to deliver up land on revocation of license, &c.

21. When any purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale, grant, location, lease or License of Occupation thereof as aforesaid, or when any person is wrongfully in possession of public land and refuses to vacate or abandon possession of the same, the Commissioner of Crown Lands may apply to the County Judge of the County, or to a Judge of the Superior Court in the Circuit, in which the land lies, for an Order in the nature of a Writ of *Habere facias possessionem*, or writ of possession, and the said Judge, upon proof to his satisfaction that the right or title of the party to hold such land has been revoked or cancelled as aforesaid, or that such person is wrongfully in possession of public land, shall grant an Order upon the purchaser, lessee or person in possession, to deliver up the same to the Commissioner of Crown Lands, or person by him authorized to receive the same; and such Order shall have the same force as a Writ of *Habere facias possessionem*, or writ of possession; and the Sheriff, or any Bailiff or person to whom the same may be entrusted for execution by the Commissioner of Crown Lands, shall execute the same in like manner as he would execute such Writ in an action of ejectment or possessory action:

Commissioner or his agent or other officer may issue distress warrant for rent of public lands in arrear.

2. Whenever any rent payable to the Crown on any lease of Public Lands is in arrear, the Commissioner of Crown Lands, or any Agent or Officer appointed under this Act and authorized by the Commissioner of Crown Lands to act in such cases, may issue a warrant, directed to any person or persons by him named therein, in the shape of a distress warrant as in ordinary cases of landlord and tenant; and the same proceedings may be had thereon for the collection of such arrears as in the said last mentioned cases; or an action of debt as in ordinary cases of rent in arrear may be brought therefor in the name of the Commissioner of Crown

Or action may be brought.

Lands; but demand of rent shall not be necessary in any case:

3. When by law or by any deed, lease or agreement relating to any of the lands herein referred to, any notice is required to be given, or any act to be done, by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Commissioner of Crown Lands; and the said Commissioner of Crown Lands may, in respect of the Ordnance lands, transferred to the Province, exercise all the powers which, before the transfer of said lands to the Province, were vested in the Principal Officers of Her Majesty's Ordnance prior to the passing of the Act 19, 20 V., c. 45.

How notices required in respect of Crown lands.

Powers of Commissioner as to Ordnance lands transferred to the Province.

PATENTS ISSUED IN ERROR.

22. Whenever a Patent has been issued to or in the name of the wrong party, through mistake in the Crown Lands Department, or contains any clerical error, or misnomer, or wrong description of the land thereby intended to be granted, the Commissioner of Crown Lands, (there being no adverse claim,) may direct the defective Patent to be cancelled and a correct one to be issued in its stead, which corrected Patent shall relate back to the date of the one so cancelled, and have the same effect as if issued at the date of such cancelled Patent.

Erroneous patents may be cancelled and correct ones issued when there is no adverse claim.

23. In all cases in which grants or letters patent have issued for the same land inconsistent with each other through error, and in all cases of sales or appropriations of the same land inconsistent with each other, the Commissioner of Crown Lands may, in cases of sale, cause a repayment of the purchase money, with interest, or when the land has passed from the original purchaser or has been improved before a discovery of the error, or when the original grant or appropriation was a free grant, he may in substitution assign land or grant a certificate entitling the party to purchase Crown Lands, of such value and to such extent as to him, the Commissioner of Crown Lands, may seem just and equitable under the circumstances; but no such claim shall be entertained unless it be preferred within five years from the discovery of the error.

In cases of double or inconsistent grants, the purchase money may be repaid with interest—or other land may be assigned—or a land certificate may be granted.

Proviso.

24. Whenever by reason of false survey or error in the books or plans in the Crown Lands Department, any grant, sale or appropriation of land is found to be deficient, or any parcel of land contains less than the quantity of land mentioned in the Patent therefor, the Commissioner of Crown Lands may order the purchase money of so much land as is deficient, with the interest thereon from the time of the application therefor, or if the land has passed from the original purchaser, then the purchase money which the

Compensation for deficiency of land by reason of false survey or error in departmental books or plans.

Proviso.

claimant (provided he was ignorant of a deficiency at the time of his purchase) has paid for so much of the land as is deficient, with interest thereon from the time of the application therefor, to be paid to him in land or in money, as he, the Commissioner of Crown Lands, may direct, or in case of a free grant he may order a grant of other land equal in value to the land so intended as a free grant at the time such grant was made; but no such claim shall be entertained unless application has been made within five years from the date of the Patent, nor unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the particular lot or parcel of land granted.

Courts may decree patents issued in error, &c., to be void; decree to be registered.

Practice in such cases.

Proceedings under former Acts may be continued under this.

25. In all cases wherein Patents for lands have issued through fraud or in error or improvidence, the Court of Chancery in Upper Canada, and the Superior Court in Lower Canada, may, upon action, bill or plaint, respecting such lands situate within their jurisdiction, and upon hearing of the parties interested, or upon default of the said parties after such notice of proceeding as the said courts shall respectively order, decree such Patents to be void;—and upon a registry of such decree in the office of the Provincial Registrar, such Patents shall be void to all intents; the practice in Court, in such cases, shall be regulated by orders to be from time to time made by the said Courts respectively; and any action or proceeding commenced under any former Act may be continued under this section, which, for the purpose of any such action or proceeding, shall be construed as merely continuing the provisions of such former Act.

MISCELLANEOUS PROVISIONS.

Lists of public lands for sale to be published.

26. The Commissioner of Crown Lands shall cause lists of the Public Lands for sale in the several Townships in Canada to be made out from time to time, and advertised or published as he deems most advisable for ensuring general information.

Lists of public lands sold to be transmitted yearly to registrars and to secretaries-treasurers of municipalities in L. C. and notice of cancellation of sales, &c., to be given to them—effect as to taxes.

27. The Commissioner of Crown Lands shall transmit, as early as possible in each year, to the Registrar of every County and Registration District or Division, and to the Secretary-Treasurer of every Municipality in Lower Canada, a list of the Public Lands sold, granted, leased or appropriated or set apart to any person, or for which licenses of occupation have been granted in such County or Registration District or Division during the year next preceding and for which no Patents have issued, which said lands shall be liable to the assessed taxes in the Townships in which they respectively lie from the date of such sale or license or appropriation; and the purchaser, at the sale of any such lands for taxes, shall, as heretofore, have, in the lands so sold, the

same rights only as the person entitled to claim under the Crown at the time of such sale; and the Commissioner of Crown Lands shall in like manner apprise each such Registrar and Secretary-Treasurer of the cancellation of any License of Occupation or Patent, or of any sale, grant, lease, location or appropriation; from which time, until resold, leased or regranted, the land affected shall cease to be liable to taxes:

2. The Registrar of the Province shall transmit, as early as possible in each year, to the Registrar of every County and Registration District and Division, and to the Secretary-Treasurer of every Municipality in Lower Canada, a list of the Public Lands patented during the year next preceding; and no return of lands other than those hereinbefore mentioned need be made.

Lists of public lands patented to be sent to same yearly by Registrar of the Province.

28. All affidavits required under this Act, or intended to be used in reference to any claim, business or transaction in the Crown Lands Department, may be taken before the Judge or Clerk of any County or Circuit Court, or any Justice of the Peace, or any Commissioner for taking affidavits in any of the Courts, or the Commissioner of Crown Lands or any Agent of the Commissioner of Crown Lands, or the Assistant Commissioner of Crown Lands, or any Surveyor duly licensed and sworn, appointed by the Commissioner of Crown Lands to enquire into or take evidence or report in any matter submitted or pending before such Commissioner, or if made out of the Province, before the Mayor or Chief Magistrate of, or the British Consul in any City, Town or other Municipality; and any wilful false swearing in such affidavit shall be perjury.

Before whom affidavits under this Act may be made.

Perjury.

29. Whenever there is any gore or small tract of land or island, which is not included in the original survey and description of any township, and is of too limited extent to form a township by itself,—the Governor may, by Proclamation, annex such gore or tract of land to any township to which it is adjacent, or partly to one and partly to another of any two or more townships to which it is adjacent, as he deems expedient; and from and after the day appointed in such Proclamation, or from the date thereof, if no other day be therein appointed for the purpose, the tract of land thereby annexed to any township shall form part thereof.

Governor may, by proclamation, annex gores to adjacent townships.

30. Copies of any records, documents, books or papers belonging to or deposited in the said Department, attested under the signature of the Commissioner, or of the Assistant Commissioner, shall be competent evidence in all cases in which the original records, documents, books or papers, could be evidence.

Attested copies of departmental records, &c., to be evidence.

31. No person holding an office created by or continued under this Act (save in the case provided for in the seventh

Employees of the Crown Land Depart-

ment not to traffic in public lands or land scrip or take fees for official labor.

section) or employed in the Department, shall, while holding such office or employment, directly or indirectly purchase any right, title or interest in any public land, or any land scrip, nor deal, nor traffic in the same, either in his own right, or by the interposition of any other person, or in the name of any other person in trust for himself, nor shall take or receive any fee or emolument for negotiating or transacting any business connected with the duties of his office or employment; and any person offending in the premises shall forfeit his office or employment, and be liable to a penalty of four hundred dollars, to be recovered in action of debt by any person suing for the same.

Penalty.

Penalty on agent knowingly giving false information, &c.

32. If any agent, appointed or continued in office under this Act, shall knowingly and falsely inform, or cause to be informed, any person applying to him to locate or purchase any land within his division and agency, that the same has already been located, assigned or purchased, or shall refuse to permit the person so applying to purchase the same, or, where entitled, to locate the same according to existing regulations, such agents shall be liable therefor to the person so applying in the sum of five dollars for each acre of land which the person so applying offered to locate or purchase, to be recovered by action of debt in any court of record having jurisdiction of the amount.

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Patent or title of patentee or of any subsequent purchaser not affected by non-observance of certain conditions.

34. With a view to remove doubts, and to quiet the titles to certain lands heretofore granted, it is enacted, that the non observance and non fulfilment of the condition imposed in and by certain patents issued for public lands, of taking the oaths which may have been heretofore prescribed, in case of any subsequent sale, conveyance, enfeoffment or exchange, by the patentee, and of recording such oaths, within twelve months after having taken possession, in the office of the Secretary of the Province, or of performing certain settlement duties, shall not affect in any way the patent or title of any patentee, or of any subsequent purchaser or proprietor.

Doubts rectified.

Sales and appropriations of water lots declared to be legal.

35. Whereas doubts have been entertained as to the power vested in the Crown to dispose of and grant water lots, in the harbors, rivers and other navigable waters in Upper Canada, and it is desirable to set at rest any question which might arise in reference thereto, it is declared and enacted, that it has been heretofore and that it shall be hereafter lawful for the Governor in Council to authorize sales, or appropriations, of such water lots under such conditions as it has been or it may be deemed requisite to impose.

36. All legal proceedings, commenced in virtue of the Acts repealed, shall be continued; and the rights, acquired by virtue and under the Acts repealed, shall be valid, and all orders in Council, and regulations of the Department, and acts done thereunder, and appointments to office now in force or existing, shall continue until altered or revoked, as if the said Acts had not been repealed; and all the provisions of this Act shall apply to lands under patent, grant, sale, location, lease or license of occupation at the time of the passing thereof, as well as to lands disposed of after the passing hereof.

Proceedings under repealed Acts continued—provisions of Act to apply to lands now under patent, &c.

37. Compensation awarded under the twenty-third and twenty-fourth sections of this Act (except where land is specifically assigned therefor by the Commissioner of Crown Lands) and all claims therefor shall be treated as personal estate and dealt with accordingly.

Compensation under ss. 23 and 24 to be personalty—Except, &c.

38. The term “Public Lands” shall be held to apply to lands heretofore designated or known as Crown Lands, School Lands, Clergy Lands, Ordnance Lands, (transferred to the Province), which designations, for the purposes of administration, shall still continue.

Definition of the term “Public Lands.”

39. The twenty-second Chapter of the Consolidated Statutes of Canada is repealed.

Chapter 22 of C. S. C. repealed.



23 VIC., CHAP. 21.

An Act respecting the Line of Division between Upper and Lower Canada.

[Assented to 19th May, 1860]

Preamble.

WHEREAS, on the twenty-fourth of August, seventeen hundred and ninety-one, His late Majesty King George the Third was pleased, by and with the advice of His Privy Council, to order that the then Province of Quebec should be divided into two Provinces, to be called the Province of Upper Canada and the Province of Lower Canada, by separating the said two Provinces according to a certain line of division; and whereas, by reason of certain inconsistencies and inaccuracies in the description of the said line of division in the Order of Council in that behalf, doubts have arisen as to the true course and situation on the ground of the said line of division; and whereas such doubts, and the consequent uncertainty as to the limits of electoral, judicial, municipal, territorial and other divisions on each side of the said line have been, and still are, notwithstanding the reunion of the said Provinces, productive of great inconvenience, loss and injury, and of serious impediments to the due administration of justice, and the exercise and discharge of political and civil rights and duties; and whereas it is expedient and highly desirable to remove such doubts by correctly describing and defining the said line of division, and providing for its being laid down and marked in the field, and to apply a remedy to the evils to which such doubts have given rise; and whereas Commissioners were appointed to enquire into and report upon the said line, and the said Commissioners, being the Honorable Frederick Auguste Quesnel, of the City of Montreal, and Thomas Kirkpatrick, Esquire, of the City of Kingston, have, in accordance with their commission in that behalf, made their report to His Excellency the Governor General upon the matters into which they were so commissioned to enquire, which report bears date the sixteenth February, 1860: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, declares and enacts as follows:—

Line between
Upper and
Lower Canada
described.

1. The said Province of Upper Canada was separated from the said Province of Lower Canada by a line of division

which may now be described as follows, that is to say :—commencing at the water's edge on the North shore of Lake St. Francis, at a point where the prolongation of a line connecting the two stone monuments now existing at the cove west of Pointe au Baudet strikes the water of the said lake ; thence along the line run in a north-westwardly course by Hyacinthe Lemaire St. Germain, sworn Land Surveyor, for the South-Western limit of the Seigniory of New Longueuil, and now bounding certain lots in the said Seigniory, and following the road between part of the Fifth Concession of the Township of Lancaster and the said Seigniory to a point at the distance of three leagues from the site of the former stone monument now under the waters of Lake St. Francis, being the westernmost angle of the said Seigniory ; thence northwardly in a straight line to the monument planted by Colonel Bouchette, Surveyor General of Lower Canada, at the extremity of the line surveyed and prolonged by him agreeably to and connecting the five stone monuments now standing, planted by Louis Guy and Pierre Remy Gagnier, sworn Land Surveyors, near Point Fortune, on the Ottawa River, to mark the commencement and course of the western limit of the Seigniory of Rigaud ; thence along the said line, so prolonged, to the Bank of the Ottawa River ; thence to the middle of the main channel of the said River ; thence ascending along the middle of the said main channel of the said River into the Lake Temiscaming ; thence through the middle of the said Lake to the head thereof ; and thence by a line drawn due north to the northern boundary line of the Province, in accordance with the said Report of the said Commissioners.

2. The Commissioner of Crown Lands shall cause the said line of division to be surveyed and run from the north bank of Lake St. Francis to the south bank of the river Ottawa, by a land surveyor duly admitted to practise as such in and for Upper Canada and Lower Canada, and being an officer of the Surveying Branch of the Department of Crown Lands, who shall mark the course of the same between those waters by monuments of cut stone, or other sufficient boundary marks, at short intervals, including one on each bank, one at every point where the course of the line is changed, and one at every other conspicuous or otherwise appropriate point, and shall make a plan and report of such survey, in which the position of each of such monuments and marks shall be shown, as well as the positions and distances and bearings from the line of any trees, streams, or other fixed objects, natural or artificial, serving to mark the said portion of the said line or its course or situation in whole or in part ; which line so marked on the ground shall be taken to be the true boundary between Upper and Lower Canada ; and such plan and survey, on being approved by the Governor in Council, shall be

Commissioner of Crown Lands to cause the said line to be surveyed and marked out by an officer of the Department.

And the line so marked shall be the true boundary.

deposited and remain of record in the said Department of Crown Lands, and shall govern in all questions relating to the said boundary :

Penalty for removing or defacing the marks.

1. Any person who shall remove or wilfully damage or deface any of such monuments or marks, shall be guilty of a misdemeanor and may be prosecuted therefor in any court of competent jurisdiction in Upper or Lower Canada, and on conviction thereof shall be liable to fine or imprisonment, or both in the discretion of the court.

Compensation for lands patented as in Upper and found to be in Lower Canada.

3. In case any land granted by letters patent under the Great Seal of the late Province of Upper Canada, or granted by letters patent under the Great Seal of this Province as being in Upper Canada, or sold by the Crown as being in Upper Canada and not yet under patent, is found under this Act to be either wholly or partly in Lower Canada, and there be nothing in such letters patent to exclude a claim to the compensation hereinafter provided for, it shall be lawful for the Governor in Council to make compensation, either in money, or land, or in land scrip or certificates to be taken in payment for public lands, to the grantee or his heir or legal representative, for such land or so much thereof as may be lost to him by reason of this Act, unless the same be still in the possession of the Crown, in which case letters patent for the same may be issued in his favor.

Recital.

4. And whereas persons entitled to compensation under the foregoing clause, may have in good faith occupied and improved partly or wholly in Lower Canada the land therein referred to as intended to be granted to them, and other persons owning lands upon or near the said line may have extended their improvements across the said line, on either side thereof, in good faith, believing they had a right so to do, and may be in possession thereof, and it is right to confirm every such person in his possession at his option; every person who shall, by the Commissioners hereinafter referred to, be found to be so in possession of any land which, by the said line, as it shall be finally marked on the ground, shall be found to be in Upper or Lower Canada, may retain possession of such land on making compensation therefor, in manner hereinafter mentioned, to the person who shall hold the legal title thereto, and who, under this Act, shall be dispossessed thereof:

Commissioners for inquiring into claims for compensation in certain cases.

1. The Governor may appoint two or more Commissioners, who shall inquire into and report upon the amount of compensation to be paid under this and the preceding section, and the manner in which it shall be paid to the parties entitled thereto, and who shall also inquire, determine and report what persons, if any, are entitled to exercise the option given by this section, and the quantity of land which each such person is entitled by the exercise of such option to retain possession of hereunder, and shall cause the same

to be described by metes and bounds ; and on compensation being made as herein provided for such parcels of land, the Commissioner of Crown Lands shall issue to each person who shall be then entitled thereto an instrument under his hand and seal declaring that such person is entitled under this Act to retain possession of such parcel of land ; and the person receiving the same, and his heirs and assigns, shall thenceforward hold such parcel of land as owners thereof in fee simple, or *en franc-alleu*, as the case may be :

2. The compensation provided for under this Act shall be in lieu of all claims against the Crown and the Seigniors of lands affected by the said division line, and against all persons owners of lands affected by the said line, or who having owned any such lands have sold the same in good faith :

Compensation to be in lieu of claims.

3. In the case of minors or persons under any legal disability, the Judge of the County Court for the County in which the land lies, if in Upper Canada, or a Judge of the Superior Court, if in Lower Canada, may, on the application of the Commissioner of Crown Lands, and upon such notice and such proceedings had as according to the laws of each section of the Province in that behalf are required in such cases, appoint a guardian for such minor or person under other legal disability, whose acts shall be as effectual and binding as if the party for whom he is such guardian was competent and had himself performed such acts :

As to persons under age, &c.

4. The Governor may confer upon the Commissioners appointed under this Act the powers authorized by the thirteenth chapter of the Consolidated Statutes of Canada to be conferred upon Commissioners appointed under that Act ; and the sub-section of the first section of the said Act, numbered two, shall then apply.

Powers of commissioners.
Con. Stat. of Canada, cap. 13.

5. Every person who has heretofore acted in any official capacity in any place in which, according to the provisions of this Act, he was not entitled to act in such capacity, although, by reason of uncertainty as to the said line of division, he might reasonably suppose himself to be so entitled, and every person who has heretofore omitted to act in any official capacity in any place in which, according to the provisions of this Act, he was bound to act in such capacity, although, by reason of uncertainty as to the said line of division, he might reasonably suppose that he was not so bound, is hereby indemnified, freed and discharged from and against all damages, penalties and forfeitures incurred or recoverable for or by reason of his having so acted or omitted to act ; and in case any action, suit, bill of indictment or information, shall, after the passing of this Act, be brought, carried on or prosecuted against any person hereby meant to be indemnified, freed and discharged from and against any damages, penalty or forfeiture whatsoever incurred, or recoverable, for or by reason of any such

Indemnity to persons who have acted in L. C. and U. C., respectively, under powers granted for the other section, —in consequence of the uncertainty of the line of division.

act or omission, such person may plead the general issue, and upon his defence give this Act and the special matter in evidence upon any trial to be had thereupon.

The same as to persons who, for like reason, have omitted to act in L. C. or U. C., respectively.

6. Every person who has heretofore done, or omitted to do, any act whatsoever, which, according to the provisions of this Act, it was not lawful for him to do, or omit to do, but which, by reason of the uncertainty as to the said line of division it was reasonable for him to suppose he might lawfully do, or omit to do, is hereby indemnified, freed and discharged from and against all damages and penalties incurred or recoverable, for or by reason of his having done, or omitted to do, the same; and in case any action, suit, bill of indictment, or information shall, after the passing of this Act, be brought, carried, or prosecuted against any person hereby meant to be indemnified, freed and discharged, from and against any damages or penalty whatsoever incurred, or recoverable, for or by reason of his having done, or omitted to do, any such act, such person may plead the general issue, and upon his defence, give this Act and the special matter in evidence upon any trial to be had thereupon.

Act not to affect sec. 6 of cap. 3 of Con. Stat. for Upper Canada.

7. Nothing in this Act contained shall be construed to vary or repeal any of the provisions of the sixth section of the third chapter of the Consolidated Statutes for Upper Canada.

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23 VIC., CHAP. 29.

An Act in amendment of the Railway Act.

[Assented to 19th May, 1860.]

HER Majesty, by and with the advice and consent of the Preamble.
Legislative Council and Assembly of Canada, enacts
as follows :

1. The Justices of the Peace for any County in Upper Constables
Canada, assembled at any General Quarter Sessions of the may be ap-
Peace, and any Judge of the Court of Queen's Bench, or pointed to act
Superior Court, or Clerk of the Peace, or Clerk of the Crown, on the line of
or Inspector and Superintendent of Police, in Lower Canada, any railway,
on the application of the Board of Directors of any Railway and how.
Company whose Railway passes within the local jurisdic-
tion of such Justices of the Peace, Judge, Clerk, or Inspector
and Superintendent of Police, as may be, on the application
of any Clerk or Agent of such Company thereto authorized
by such Board, may, in their or his discretion, appoint any
persons recommended to them for that purpose by such
Board of Directors, Clerk or Agent, to act as Constables on
and along such Railway ; and every person so appointed
shall take an oath or make a solemn declaration in the form
or to the effect following, that is to say :—

"I, A. B., having been appointed a Constable to act upon Oath of office.
"and along (*here name the Railway*), under the provisions of
"(*here insert the title of this Act*.) do swear that I will well
"and truly serve our Sovereign Lady the Queen, in the said
"office of Constable, without favor or affection, malice or
"ill-will, and that I will, to the best of my power, cause
"the peace to be kept, and prevent all offences against the
"peace, and that while I continue to hold the said office, I
"will, to the best of my skill and knowledge, discharge the
"duties thereof faithfully, according to law. So help me
"God."

Such oath or declaration shall be administered in Upper By whom to
Canada by any one such Justice, and in Lower Canada, by be adminis-
any such Judge, Clerk, or Inspector and Superintendent of tered.
Police ; and every Constable so appointed, and having Powers of
taken such oath or made such declaration as aforesaid, shall such con-
have full power to act as a Constable for the preservation of stables, and
the peace and for the security of persons and property against to what local-
felonies and other unlawful acts, on such Railway, and on ities they
shall extend.

Duties of such constables.

any of the works belonging thereto, and on and about any trains, roads, wharves, quays, landing-places, warehouses, lands and premises belonging to such Company, whether the same be in the County, City, District or other local jurisdiction within which he was appointed, or in any other place through which such Railway passes or in which the same terminates, or through or to which any Railway passes, which may be worked or leased by such Railway Company, and in all places not more than one quarter of a mile distant from such Railway or Railways; and shall have all such powers, protections and privileges for the apprehending of offenders, as well by night as by day, and for doing all things for the prevention, discovery and prosecution of felonies and other offences, and for keeping the peace, which any Constable duly appointed has within his constable-wick; and it shall be lawful for any such Constable to take such persons as may be punishable by summary conviction for any offence against the provisions of this Act, or of any of the Acts or By laws affecting any such Railway, before any Justice or Justices appointed for any County, City, District or other local jurisdiction within which any such Railway may pass; and every such Justice shall have authority to deal with all such cases, as though the offence had been committed and the person taken within the limits of his own local jurisdiction.

Dismissal of any such constable.

2. Any two Justices of the Peace in Upper Canada, and any Judge of the Court of Queen's Bench or Superior Court, or Clerk of the Peace, or Clerk of the Crown, or Inspector and Superintendent of Police, in Lower Canada, may dismiss any such Constable who may be acting within their several jurisdictions; and the Board of Directors of such Railway Company, or any Clerk or Agent of such Company thereto authorized by such Board, may dismiss any such Constable who may be acting on such Railway; and upon every such dismissal, all powers, protections and privileges belonging to any such person by reason of such appointment, shall wholly cease; and no person so dismissed shall be again appointed or act as a Constable for such Railway, without the consent of the authority by which he was dismissed.

Record of appointment of each constable to be kept.

3. Every such Railway Company shall cause to be recorded in the office of the Clerk of the Peace, for every County, City, District or other local jurisdiction wherein such Railway or Railways may pass, the name and designation of every Constable so appointed at their instance, the date of his appointment, and the authority making it, and also the fact of every dismissal of any such Constable, the date thereof and the authority making the same, within one week after the date of such appointment or dismissal, as may be; and every such Clerk of the Peace shall keep

such record in a book to be open to public inspection, charging such fee or fees only as the Governor in Council Fees. may from time to time authorize, and in such form as the Governor in Council may from time to time direct.

4. Every such Constable who shall be guilty of any neglect or breach of duty in his office of Constable, shall be liable, on summary conviction thereof within any County, City, District or other local jurisdiction wherein such Railway may pass, to a penalty of not more than eighty dollars, the amount of which penalty may be deducted from any salary due to such offender, if such Constable be in receipt of a salary from the Railway Company, or to imprisonment, with or without hard labor, for not more than two months, in the gaol of such County, City, District or other local jurisdiction.

Punishment of constables guilty of neglect of duty.

5. Every person who shall assault or resist any Constable appointed as aforesaid, in the execution of his duty, or who shall incite any person so to assault or resist, shall, for every such offence, be liable, on like summary conviction, to a penalty of not more than eighty dollars, or to imprisonment, with or without hard labor, for not more than two months, in such gaol as aforesaid.

And of persons resisting them.

6. Every person who shall bore, pierce, cut, open, or otherwise injure any cask, box, or package containing wine, spirits, or other liquors, or any case, box, sack, wrapper, package, or roll of goods, in, on or about any car, waggon, boat, vessel, warehouse, station-house, wharf, quay, or premises of or belonging to any such Railway Company, with intent feloniously to steal, or otherwise unlawfully to obtain or to injure the contents or any part thereof, or who shall unlawfully drink, or wilfully spill or allow to run to waste any such liquors or any part thereof, shall, for every such offence, be liable, on like summary conviction, to a penalty of not more than twenty dollars, over and above the value of the goods or liquors so taken or destroyed, or to imprisonment, with or without hard labor, for not more than one month, in such gaol as aforesaid.

Punishment of persons boring or cutting casks or packages on railway.

7. For any offence against the provisions of this Act, punishable by summary conviction, it shall be lawful to proceed against the offender, either in the manner provided by this Act, or according to the provisions of the *Act respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders*, forming the one hundred and third chapter of the Consolidated Statutes of Canada, in regard to any acts and offences in such Act mentioned; and it shall be lawful to use, pursue and adopt any or all of the forms, directions, modes of procedure, remedies and proceedings, (as well in regard to witnesses

Proceedings against any such offender. Con. Stat. Canada, cap. 103.

and parties as others,) mentioned or provided in such Act in all complaints, prosecutions, convictions, levies and proceedings for offences against this Act.

Appeal in such cases.

8. In all cases of complaint by summary proceeding before a Justice of the Peace in Upper Canada, against any person for a violation of any of the provisions of this Act, all decisions, convictions and orders made by such Justice shall be subject to appeal, in the manner and under the provisions prescribed in the Act "*respecting appeals in cases of summary conviction*," forming the one hundred and fourteenth chapter of the Consolidated Statutes for Upper Canada.

Railway may be required to repair any level crossing out of repair.

Inspector's certificate to be conclusive.

Proviso.

Provision when the county judge is interested in lands required for any railway.

9. Whenever any level crossing on any Railway shall be out of repair, the Warden, Mayor, Reeve or other Chief Officer of the Municipality having jurisdiction over the Railway so crossed, may serve a notice upon the Company in the usual manner, requiring the repair to be forthwith made; and if the Company shall not forthwith make the same, such officer may transmit a copy of the notice so served to the Inspector of Railways; and thereupon it shall be the duty of said Inspector, with all possible despatch, to appoint a day when he will examine into the matter; and he shall by mail give notice to such Warden, Mayor or Reeve, and to the Company, of the day he shall so fix; and upon the day so named he shall examine such crossing; and any certificate under his hand shall be final on the subject so in dispute between the parties; and if the said Inspector shall determine that any repairs are required, he shall specify the nature thereof in his said certificate, and direct the Company to make the same; and the Company shall thereupon, with all possible despatch, comply with the requirements of such certificate; and in case of default, the Municipality, within whose jurisdiction the said crossing is situate, may make such repairs, and may recover all costs, expenses and outlays in the premises by action against the Company in any court of competent jurisdiction, as money paid to the Company's use; Provided always, that neither this section nor any proceeding had thereunder shall at all affect any liability otherwise attaching to such Company in the premises.

10. Whenever any Judge of a County Court in Upper Canada is interested in lands taken or required, within the County in which he is such Judge, by any Railway Company, for Railway purposes, any Judge of any of the Superior Courts at Toronto shall, on application of such Company, exercise in such case all the powers given to such Judge of a County Court by the eleventh section of the Railway Act, in cases in which he, such Judge of a County Court, is not interested.

11. The provisions of this Act shall apply to every Rail- Extent of
way made or to be made in this Province. Act.

12. This Act shall be cited as "The Railway Act Amend- Short title.
ment Act of 1860."

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most
Excellent Majesty.



23 VIC., CHAP. 82.

An Act respecting the Indian Lands in the Township of Durham, in the County of Drummond.

(Assented to 19th May, 1860.)

Preamble.

WHEREAS, by the Act hereinafter mentioned, it was and is in effect provided, that certain descriptions of deed or instrument therein enumerated affecting any portion of the lands in the Township of Durham, in the County of Drummond, granted by Letters Patent, in the year one thousand eight hundred and five, to divers Indians, should be held valid, notwithstanding anything in such Letters Patent to the contrary, provided a certain amount of ground rent should have been stipulated thereby, but no provision was made as to the validity of any other description of deed or instrument affecting such lands, or whereby any ground rent or other right thereon might have been, in whole or part, redeemed, ceded or released; and whereas it is expedient to remedy this omission, and in other respects to make better provision than by the said Act is made for assuring, so far as may be possible, the titles and rights of all the parties interested in such lands: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

19-20 V., c. 4,
repealed.

1. The Act passed in the Session held in the nineteenth and twentieth years of Her Majesty's Reign, intituled: "An Act to change the tenure of the Indian Lands in the Township of Durham," is hereby repealed, but the repeal thereof shall not revive any Act thereby repealed.

Conveyances
of the said
lands not in-
valid for cer-
tain causes.

2. No deed or instrument in writing whatsoever, for the passing of title to such lands or any thereof, or in any wise affecting the same, or having reference to any ground rent or other right whatsoever, on, to or in respect of the same, whenever or by whomsoever executed, shall be held for null, either as a whole or as touching any stipulation or matter therein set forth, by reason of any restriction whatsoever in the premises imposed by the said Letters Patent granting the said lands, or of any provision or clause whatsoever in the said Letters Patent contained, or of any disability or supposed disability of the Indians, grantees thereunder, or of their heirs or other representatives, as being Indians, to contract in any wise in the premises.

3. Any contestation whatsoever between Indians, or where to any Indian may be a party, as to, or arising out of, any such deed or instrument, may, by the parties or by any Court seized of such contestation, be deferred for the decision of the Superintendent General of Indian Affairs; and his decision thereon shall be final and conclusive.

Whenever Indians are parties, Superintendent to decide.

4. The Superintendent General of Indian Affairs, if satisfied of the right of property in any such land, under any such deed or instrument, of any person being in lawful possession of such land, may accept payment from such person of the capital, or of any unredeemed remainder of the capital, of all ground rent which he may find to be secured thereon in favor of any Indian, calculated at the rate of six per centum per annum; and may thereupon grant to such person a certificate in the form of Schedule A, to this Act annexed; or, if satisfied further that there subsists thereon no such ground rent, may thereupon grant to such person a certificate in the form of Schedule B, to this Act annexed.

Superintendent, if satisfied of title, may accept payment and grant a certificate.

5. Every certificate granted under the foregoing section, being enregistered in the Registry Office of the County of Drummond, within three months from the date thereof, shall absolutely cut off all adverse title or claim whatsoever to the land therein mentioned, or any part thereof, or to any rent or other right whatsoever affecting the same, whether by any Indian whomsoever or by any other person requiring to trace such title or claim through any Indian—and shall be *prima facie* proof of the title to such land of the person to whom the same is granted, as against all other persons; but if not so enregistered within such three months, the same shall thereafter be held for null.

Effect of certificate when registered.

6. Every receipt heretofore granted by the Superintendent General of Indian Affairs, and duly enregistered in terms of the Act hereby repealed, shall remain of the same force and effect as though this Act had not been passed; and any such receipt not yet so enregistered, if enregistered in the said Registry Office within three months after the passing of this Act, shall also have the like force and effect, but otherwise shall thereafter be held for null.

Former receipts to remain valid.

7. The Superintendent General of Indian affairs shall keep an account of all sums received by him, whether under the Act hereby repealed or under this Act; and may pay over the same or any balance thereof, with interest, to any Indian or claimant under an Indian, of whose right thereto he may be satisfied; or, in his discretion, may, for so long as he shall see fit, simply pay over yearly the interest accruing on any such sum or balance.

Superintendent to keep certain accounts under this Act.

SCHEDULE A.

I, the undersigned A. B., Superintendent of Indian Affairs for the Province of Canada, do hereby certify, that I am satisfied of the right of property thereto, of _____, now in possession of the hereinafter described part of the lands in the Township of Durham, in the County of Drummond, which were granted by Letters Patent in the year one thousand eight hundred and five to divers Indians, that is to say, of (*here describe the land.*) and further that I have this day accepted payment from him of the sum of _____ being the capital (*or the unredeemed remainder of the capital, as may be,*) of all ground rent which I find to be secured thereon in favor of any Indian.

Certified this _____ day of _____, in the year one thousand eight hundred and _____, under the Act passed in the twenty-third year of Her Majesty's reign, intituled: "*An Act respecting the Indian Lands in the Township of Durham, in the County of Drummond.*"

A. B.

SCHEDULE B.

I, the undersigned A. B., Superintendent of Indian Affairs for the Province of Canada, do hereby certify that I am satisfied of the right of property thereto, of _____, now in possession of the hereinafter described part in the lands of the Township of Durham, in the County of Drummond, which were granted by Letters Patent in the year one thousand eight hundred and five to divers Indians, that is to say, of (*here describe the land.*) and further, that I do not find that there is now any ground rent secured thereon in favor of any Indian.

Certified this _____ day of _____ in the year one thousand eight hundred and _____, under the Act passed in the twenty-third year of Her Majesty's reign, intituled: "*An Act respecting the Indian Lands in the Township of Durham, in the County of Drummond.*"

A. B.



23 VIC., CHAP. 123.

An Act to incorporate the Pilots for and below the
Harbour of Quebec.

[Assented to 19th May, 1860.]

WHEREAS it is necessary, for the interests of commerce and navigation, to protect the Branch Pilots for and below the Harbour of Quebec; and whereas the incorporation of the said Pilots would greatly tend to the obtaining of this object; and whereas the said Pilots have, by their petition, prayed to be incorporated: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Preamble.

1. The Pilots for and below the Harbour of Quebec, now having Branches as such, or who may hereafter obtain Branches as such, according to the provisions of the Act in that behalf, shall be and constitute a body politic and corporate by the name of *The Corporation of Pilots for and below the Harbour of Quebec*; and the said Corporation shall have and possess all the powers granted to bodies politic and corporate by the Consolidated Statutes of Canada, chapter five, section six, paragraph twenty-four.

Incorporation.

Corporate name and general powers.

2. The affairs of the said Corporation shall be managed and administered by a Board of Directors composed of six members of the Corporation, four of whom shall be a quorum.

Board of directors.

3. The first Board of Directors shall consist of the following persons, namely, François Xavier Lachance, the elder, Thomas Connell, Thomas Simard, Edouard Anctil, François Lapointe, the elder, and Robert Demers, all Branch Pilots for and below the Harbour of Quebec.

First board.

4. The duties and functions of the Board of Directors shall be from time to time to make, alter, modify and repeal, in whole or in part, by-laws for the management and administration of the property of the Corporation;—for maintaining discipline among the Pilots;—for establishing, from time to time, the order in which the Pilots, or any separate class or number of them, shall serve as such, each in his turn;—for prescribing the mode of filling up vacancies occurring among the Directors during their term of office;—for regulating the

Duties of the board.

By-laws for certain purposes.

General purposes.

Proviso.

mode of proceeding at the meetings of the Board of Directors and at the general meetings of the Corporation;—for the division and distribution of the funds of the Corporation;—for ordering the duties of the Secretary and of the Treasurer of the Corporation;—for ascertaining and establishing the expenses of the said Corporation; and, lastly, concerning all matters and things necessary for the working of this Act; Provided, that none of the said by-laws be contrary to the laws of this Province, or to the provisions of this Act.

Publication of by-laws.

5. No by-law shall be binding until after it has been published at least twice a week, for three weeks, in French, in a newspaper published in the City of Quebec, in the French language, and at least twice a week, during the same space of time, in English, in a newspaper published in the English language in the said city, and has been approved by the Trinity House of Quebec fifteen days at least after the last publication.

Approval by Trinity House.

Trinity House may amend or reject.

6. The said Trinity House of Quebec shall approve or reject every such by-law, in whole or in part, or modify it, according as it may think just or reasonable:

Copies of by-laws.

2. Every by-law, as passed by the Trinity House, shall be printed, and every person may obtain a copy from the Secretary of the Corporation on payment of the price which shall be fixed by the Board of Directors:

Certified copies.

3. Every copy of a by-law, certified by the Secretary and sealed with the seal of the Corporation, shall be evidence of its contents to all intents and purposes.

First meeting of the board.

7. The first meeting of the Board of Directors, after the passing of this Act, shall be called by the Chief Superintendent of Pilots of the Trinity House of Quebec, by notice given by him in writing to each of the Directors, eight days at least before the day on which the meeting is to take place:

Notice.

2. This notice shall indicate the place, the day and the hour of the meeting:

Who shall preside.

3. The said Superintendent of Pilots shall preside at the meeting:

Chairman of directors.

4. The Directors present, if they are sufficient in number to form the quorum required by this Act, shall, by a majority of votes, elect one of themselves to be Chairman of the Board of Directors of the Corporation:

Secretary and treasurer.

5. They shall elect also, in the same manner, a Secretary and a Treasurer of the Corporation; or they may, if they deem it more advantageous, elect one and the same person to perform the duties of Secretary and of Treasurer; and in this case, the person so elected shall be called the Secretary-Treasurer of the Corporation, and shall perform the duties of those two offices thus united:

Treasurer to give security.

6. In any case, the Treasurer, or the Secretary-Treasurer, shall give to the Corporation, before entering into office,

good and sufficient security, to the amount of the sum of one thousand two hundred and fifty pounds currency.

8. If, at any meeting of the Board of Directors, the Chairman is absent, the Directors present shall choose one of themselves to preside: If the chairman is absent.

2. The Chairman, or the person filling his place in his absence, shall have a right to vote only in case of an equal division of the votes. Chairman's vote.

9. When the Chairman is hindered by illness, or by any other lawful cause whatsoever, or by absence for more than fifteen days, from performing the duties of his office, the Board of Directors shall choose one of its members to perform the duties of Chairman during the absence of the said Chairman: Temporary chairman.

2. If the absence continues more than three months, then the Board of Directors shall proceed to elect another Chairman. New chairman in certain cases.

10. The Chairman, or any Director, may require the Secretary to call a meeting of the Board of Directors; and this requisition shall be in writing, signed by the Secretary, stating the special purpose for which such meeting is convened; and no other subject than that so stated shall be considered at such meeting. Calling meetings of directors.

11. The Directors appointed by this Act shall remain in office for one year, reckoning from their appointment, or until the day hereinafter appointed for the election of Directors: Term of office.

2. At the expiration of the said period the said Directors shall go out of office, and shall be replaced in the manner hereinafter prescribed: New election.

3. After each renewal of the Board of Directors, the Directors shall, at the first meeting after the election, choose one of themselves to be Chairman of the Board of Directors and of the Corporation. New chairman.

12. The Directors going out of office, or any of them, may be re-elected. Re-election.

13. The election of Directors shall take place once in every year, beginning with the year one thousand eight hundred and sixty-one, on the twenty-fifth day of November in every such year, or on the next following day, if that day be a Sunday or an obligatory holiday: Yearly election.

2. The Secretary shall call a general meeting of the members of the Corporation for this purpose, by notice inserted for fifteen days, in the French language, in a newspaper published in French, in the City of Quebec, and during the same space of time in the English language, in a newspaper published in English in the said City: Calling general meeting for election.

- Notice. 3. This notice shall contain the place, the day, the hour and the object of the meeting.
- Election by ballot. **14.** At the place, on the day, and at the hour indicated by the said notice, the members of the Corporation then present shall proceed by ballot, and by the majority of votes, to the election of Directors to replace those going out of office :
- Scrutinizing votes. 2. The Secretary, assisted by two members of the Corporation appointed by the meeting, shall scrutinize the votes, and the Chairman shall declare the members who shall have received the greatest number of votes, to be elected as Directors.
- Provision in case of failure of election. **15.** If, from any cause whatever, the election of Directors has not taken place on the day hereinbefore appointed, ten members of the Corporation may, by a writing signed by them, require the Secretary to call, without delay, a meeting of the members of the Corporation, to proceed to the said election :
- Meeting. 2. And this meeting shall be called in the manner and form prescribed by the thirteenth section of this Act.
- Presiding at meetings. **16.** Every meeting of the members of the Corporation, called in virtue of this Act, shall be presided over by the Chairman of the Corporation, or in his absence by him who shall be chosen for that purpose by the majority of the members present :
- Vote of chairman. 2. The Chairman, and, in his absence, he who shall occupy his place, shall vote only when the votes are equally divided.
- Majority to decide. **17.** Every matter or thing submitted to a general meeting shall be decided by the majority of the votes of the members present.
- Calling special general meetings. **18.** The Board of Directors may at any time call a general meeting of the members of the Corporation :
- Requisition. 2. Such meeting may also be called on requisition in writing, signed by at least a third of the members of the Corporation, stating the object of the meeting, and addressed to the Secretary :
- Notice. 3. In either case the meeting shall be called by notice given in the manner prescribed by the thirteenth section of this Act.
- Account to be rendered by directors. **19.** At the general meeting, which shall be held on the twenty-fifth of November, or on the next following day, if that day be a Sunday or an obligatory holiday, the Board of Directors shall render an account of their management and administration during the year ending on the said day, and the Treasurer shall submit a detailed statement of the financial affairs of the Corporation and of the moneys by him received and paid, with vouchers, and the said Board shall

cause a copy of such statement, certified by the Chairman and Treasurer, to be transmitted within ten days after such general meeting to the Trinity House of Quebec, and shall also, within a reasonable time after the same is demanded, furnish to the said Trinity House such further information in relation to such management, administration and affairs as by the said Trinity House may be required; and a failure to furnish such statement or further information as herein provided shall subject the said Corporation to a fine of two hundred dollars, to be recovered in the name of the said Trinity House before any Court of competent jurisdiction.

Information
to Trinity
House.

Penalty for
default.

20. The meeting may, if it thinks necessary, appoint one or more competent persons to examine and audit the Treasurer's accounts.

Auditors.

21. The income of the Corporation shall consist of all sums of money arising from the pilotage of all ships and vessels required by law to take a Pilot in and below the Harbour of Quebec, and from the other services rendered by the Pilots, and for which the Pilots' Tariff allows pay or remuneration.

Income of
corporation.

22. Every Pilot who pilots a vessel belonging to Her Majesty in any part whatsoever of the Port of Quebec, shall pay to the Treasurer of the Corporation, within twenty-four hours after his arrival at Quebec, after having so piloted the same, the sum he shall have received for such pilotage, on pain of being deprived of his Branch.

Pilots to pay
over pilotage
of H. M. ves-
sels.

23. The master of every vessel (including Her Majesty's transports) clearing outwards from the Port of Quebec, shall pay to the Treasurer of the Corporation the sum he shall owe to the Pilot who shall have piloted his vessel in any part of the Port of Quebec; and in addition, the amount of such pilotage from Quebec to Bic, if such vessel take a clearance for any port out of the Province; and further every other sum he may owe to a Pilot for services by him rendered in his capacity of Pilot, and for which the Pilots' Tariff allows pay:

Masters to pay
pilotage to
corporation.

2. And the Collector or other Officer of Her Majesty's Customs at Quebec shall not grant any vessel a clearance outwards for any port out of this Province, unless the master of such vessel exhibits to him a certificate from the said Treasurer to the effect that he has paid the pilotage dues.

No clearance
at Quebec un-
til it is paid.

24. The master of every vessel (including Her Majesty's transports) clearing from a port in Lower Canada other than that of Quebec, shall pay to the Collector or other Officer of Her Majesty's Customs at such port the pilotage of such vessel within the limits of the Port of Quebec, as well for the ascent as for the descent of the river St. Law-

As to vessels
clearing from
other ports.

rence by such vessel, if the clearance is for a port outside of the Province, as well as every other sum due to any Pilot for and below the Harbour of Quebec for services rendered by him, and for which the Pilots' Tariff allows pay :

No clearance until such payment.

2. And no Collector or other Officer of Her Majesty's Customs shall grant a clearance to such master of a vessel unless he have paid such pilotage or other dues or sums thus due.

Collector to pay over to corporation.

25. The Collector or other Officer of Her Majesty's Customs, who shall receive any sum whatsoever by virtue of this Act, shall pay over the amount to the Treasurer of the Corporation on the first day of each month, and shall transmit at the same time a detailed statement of the sums so by him received.

Reimbursement of pilotage, if vessel runs aground, &c.

26. If a Pilot runs a vessel aground, or if, by his fault, any accident happens to a vessel by which, according to law or to the by-laws of the Trinity House of Quebec, such Pilot forfeits his pilotage, the master or owner of such vessel shall be entitled to be reimbursed by the said Corporation the amount of pilotage paid by him; and on the refusal of the Treasurer of the Corporation to repay the same, he may recover the amount of the pilotage by action, complaint or information, before the Trinity House of Quebec, who shall proceed thereupon in the manner prescribed for the prosecution of the complaints and informations of which they are by law authorized to take cognizance.

Application of moneys.

27. Every sum received or due for pilotage or other services as aforesaid in virtue of this Act, shall belong to the Pilots' Corporation.

Recovery of moneys due to the corporation.

28. Every sum due by virtue of this Act shall be sued for and recovered by the said Corporation before the Trinity House of Quebec in the manner and form prescribed for the prosecution of matters and things which the said Trinity House of Quebec may likewise take cognizance of and determine; and the judgment on such prosecution shall be executed in the manner and form observed before the said Trinity House of Quebec.

Net income to be shared equally among members of the corporation.

29. The net income of the Corporation, after deducting the expenses of administration and management and any fines and penalties incurred and paid by the said Corporation on its own account, in virtue of this Act, shall be shared and divided equally between the members of the said Corporation acting and practising as Branch Pilots for and below the Harbor of Quebec; and no Pilot, who shall be master or commander of a vessel other than that or those belonging to the said Corporation, shall be considered as a

Branch Pilot for the purposes of this Act so long as he shall thus be master or commander of such vessel; and the said corporation of Pilots shall have the right to own vessels and to register the same under any law now or hereafter to be in force in this Province, and all declarations and other acts required by any such law on the part of the owner or owners may be made by the Secretary of the Corporation constituted under this Act:

Corporation may own vessels.

2. The partition, division and payment of the said revenue to and among the members of the said Corporation, shall be made at the periods which shall be determined and settled by the Board of Directors.

When the income shall be divided.

30. If a Pilot, by his act, his fault, or his negligence, loses the whole or part of the amount of any pilotage or of any other sum for services rendered by him as a Pilot, or occasions to the Corporation any damage or loss whatsoever, or if the Corporation, for any lawful cause whatsoever, is obliged to pay any sum of money for a Pilot, in all these cases the amount of the damage so caused or suffered, or the money so lost or paid shall be deducted from the share of the income of the Corporation accruing to such Pilot.

Penalty on pilots losing money to the corporation.

31. In case the Montreal Ocean Steamship Company shall, on or before the twentieth day of March, in any year, furnish the Secretary of the Corporation with a list or statement of the names of four members of the said Corporation, selected by the said Company to pilot their vessels, it shall be the duty of the Board of Directors to place the names of the said four members on a separate roster or roll of names, for and during the remainder of that year; and the said four members shall pilot the vessels of the said Company, each in his turn, according to such separate roster, and shall be exempt from piloting any other vessels, and shall not be liable to any forfeiture, fine or penalty, for refusing or neglecting to pilot in their turns, according to the general, or any other, roster or roll of names of the members of the said Corporation, or any by-law or order of the Board of Directors, relating to the same, for and during the remainder of the said year.

Piloting Ocean Steamship Company's vessels.

32. Every Pilot shall report himself at the office of the Corporation within forty-eight hours after his arrival in Quebec, in charge of any Vessel, or after having piloted any Vessel down the river, and it shall be the duty of the Secretary, there and then, to place his name upon the roll or roster of the names of the Members of the said Corporation; and any Master of any Vessel, clearing outwards from the Port of Quebec, may, on or after taking his clearance, select any one of the members not being a Director, of the said Corporation, whose name may then be upon the said roll or roster, and who has not been selected by the Montreal Ocean Steamship Company for the then current year, to pilot his

Pilots to report themselves at corporation office.

Masters of vessels clearing outwards may select a pilot.

vessel down the river; and upon his the said Master's notifying such selection to the Secretary of the said Corporation, either verbally or in writing, it shall become and be the turn of such member to pilot such vessel; and after having piloted such vessel accordingly, he shall be deemed to have piloted in his turn, the next time it comes to his turn to pilot a vessel according to any by-law or order of the Board of Directors.

Penalty on
pilots refusing
to act.

33. Every Pilot who shall refuse or neglect to pilot in his turn, according to the provisions of this Act, shall forfeit, out of the share of the income of the Corporation accruing to him, a sum not exceeding ten pounds and not less than two pounds ten shillings currency for each refusal or neglect, as the Board of Directors may determine; and each such act of refusal or neglect shall make it the turn of the Pilot next for duty according to the same roster or roll of names, and subject him also to such forfeiture in case of his refusal or neglect to pilot.

Pilots sus-
pended, &c.,
not to share in
income.

34. Every Pilot interdicted or suspended according to law shall, during the continuance of his interdiction or suspension, cease to form part of the Corporation and to participate in the rights conferred by this Act:

When suspen-
sion ceases.

2. At the expiration of the interdiction or suspension he shall be once more a member of the Corporation; but he shall not share in the income received by the Corporation during the continuance of his interdiction or suspension.

Pilots losing
their bran-
ches.

35. Every Pilot deprived of his Branch according to law shall cease to form part of the Corporation.

Rights of
Trinity House
saved.

36. Nothing in this Act contained shall prejudice the rights or powers conferred upon the Trinity House of Quebec by the Provincial Statute, twelfth Victoria, chapter one hundred and fourteen.

Corporation
amenable
to Trinity
House.

37. The Corporation of Pilots for and below the Harbour of Quebec shall, as such, be amenable to the jurisdiction of the Trinity House of Quebec, and the members thereof shall be liable collectively, in their corporate capacity, for any breach of any by-law of the Trinity House of Quebec, committed by the said Corporation, or by the Board of Directors or any officer thereof, in the same penalty as would attach to the breach of such by-law by any one of them in his individual capacity, unless a different penalty for the breach thereof by the said Corporation, or by the Board of Directors or any officer thereof, be imposed by such by-law.

Trinity House
may impose
penalties on
it.

38. The Trinity House of Quebec may attach any penalty, not exceeding two hundred dollars, to the breach by the

said Corporation, or by the Board of Directors or any officer thereof, of any of their by-laws, made or to be made.

39. All fines and penalties, which any member of the said Corporation shall be condemned by the Trinity House of Quebec to pay, shall be paid for him by the Treasurer of the said Corporation to the Treasurer of the Trinity House of Quebec; and all fines and penalties, which the said Corporation or the Board of Directors or any officer thereof shall be condemned by the Trinity House of Quebec to pay, shall be paid by the Treasurer of the said Corporation to the Treasurer of the Trinity House of Quebec; and all fines and penalties so paid shall form part of the Pilot Fund.

How such penalties shall be paid and applied.

40. In case of the refusal of the Treasurer of the said Corporation to pay any sum of money which the said Corporation, or the Board of Directors or any officer or member of the said Corporation, has been condemned by the Trinity House of Quebec to pay, the Trinity House of Quebec may, by writ in the nature of a writ of *saisie arrêt*, attach in the hands of any Collector of Her Majesty's Customs any moneys to the amount thereof by him payable, or to become payable to the said Corporation, by virtue of this Act; and any such Collector may deduct any sum paid by him under any such writ from the amount payable by him to the Treasurer of the Corporation on the first day of the then next month, in virtue of this Act.

Enforcing payment of moneys by corporation.

41. In this Act the word "master" shall signify the captain, master, commander, or other person in charge of a vessel; the word "vessel" shall signify every sailing vessel or steam vessel obliged by law to take a Pilot within the limits of the Port of Québec, and the words "Pilots' Tariff" shall signify the tables of rates of pilotage forming Schedule A annexed to the said Act twelfth Victoria, chapter one hundred and fourteen.

Interpretation of certain words.

42. This Act is a Public Act, and the Interpretation Act shall apply to it.

Public Act, &c.

43. This Act shall have force and effect upon, from and after the twenty-sixth day of November next.

Commencement of Act.



24 VIC., CHAP. 17.

An Act to explain and amend the Railway Act.

[Assented to 18th May, 1861.]

Preamble.

WHEREAS doubts are entertained as to whether Rectors in possession of Glebe Lands in Upper Canada, Ecclesiastical and other Corporations, Trustees of Land for Church and School purposes or either, Executors appointed by Wills in which they are not invested with any power over the real estate of the Testator, Administrators of persons dying intestate, but at their death seized of real estate, are authorized by the eleventh section of the Railway Act to sell or dispose of any of such lands to any Railway Company for the actual use of and occupation by such Company; and whereas it is desirable to remove such doubts, and to amend the said Railway Act in the particulars hereinafter set forth: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Certain conveyances to railway companies under sec. 11 of the Railway Act, declared valid.

1. The true intent and meaning of the said section of the said Act was and is, that the several persons and parties hereinbefore mentioned, with respect to the lands above in this Act referred to, should and shall exercise all the powers mentioned in the first sub-section of the said section eleven of the said Railway Act, with respect to any of such lands actually required for the use and occupation of any Railway Company; and any conveyance made under the said first sub-section shall vest in the Railway Company receiving the same, the fee simple in the lands in such Deed described, freed and discharged from all trusts, restrictions and limitations whatsoever.

Sec. 11 of Con. Stat. Can., cap. 66, to apply.

2. All the provisions in the said section and in the said Act contained as to Arbitrations, and obtaining possession and title to such lands, and the disposition of the purchase money, shall apply to all the parties and lands in this Act and in the said subsection mentioned; and no Railway Company shall be responsible for the disposition of any purchase money for lands taken by them for their purposes, if paid to the owner of the land or into Court for his benefit.

Provision when county judge is interested.

3. Whenever any County Judge shall be or is interested in lands taken or required within the County in which he

is such Judge, by any Railway Company, for Railway purposes, any Judge of any of the Superior Courts in Upper or Lower Canada shall, on application of such Company, exercise in such case all the powers of the County Court Judge given to him by the said eleventh section of the said Act, in cases in which he the County Judge is not interested.

4. The one hundred and thirty-first section of the Railway Act is hereby amended by adding thereto the following proviso: Sec. 131,
amended.

"Provided always, that every Railway Company shall, according to their respective powers, afford all reasonable facilities to any other Railway Company for the receiving and forwarding and delivering of traffic upon and from the several Railways belonging to or worked by such Companies respectively, and for the return of carriages, trucks, and other vehicles; and no such Company shall give or continue any preference or advantage to or in favor of any particular Company or any particular description of traffic, in any respect whatsoever, nor shall any such Company subject any particular Company or any particular description of traffic to any prejudice or disadvantage in any respect whatsoever; and every Railway Company having or working a Railway which forms part of a continuous line of Railway or which intersects any other Railway, or which has any Terminus, Station or Wharf of the one near any Terminus, Station or Wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding by the one of such Railways, all the traffic arriving by the other, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered in the using of such Railway as a continuous line of communication, and so that all reasonable accommodation may, at all times, by the means aforesaid, be mutually afforded by and to the said several Railway Companies; and any agreement between any two or more Railway Companies contrary to the foregoing provisions, made after the passing of this Act, shall be unlawful, null and void."

Railway companies must afford each other every facility for the forwarding of traffic, without preference or favour.

Agreements made in contravention of this Act, to be void.

5. If any officer, servant or agent of any Railway Company, having the superintendence of the traffic at any Station or Depot thereof, refuses or neglects to receive, convey or deliver at any Station or Depot of the Company for which they may be destined, any passenger, goods or things brought, conveyed or delivered to him or to such Company, for conveyance over or along their Railway from that of any other Company, intersecting with or coming near to such first mentioned Railway,—or in any way wilfully contravenes the provisions of the next preceding section,—such first mentioned Railway Company or such officer, servant or agent, personally, shall for each such neglect or refusal, incur

Penalty on companies or their officers refusing or neglecting to forward traffic, as above required.

How recover-
able, and how
to be applied.

a penalty not exceeding fifty dollars, over and above the actual damages sustained; which penalty may be recovered with costs, in a summary way, before any Justice of the Peace, by the Railway Company or any other party aggrieved by such neglect or refusal, and to and for the use and benefit of such Company or other party so aggrieved.

Interpreta-
tion of word
"Traffic."

"Railway,"

"Railway
Company,"
&c.

6. For the purposes of the two next preceding sections, the word "Traffic" includes not only passengers and their baggage, goods, animals and things conveyed by Railway, but also cars, trucks and vehicles of any description adapted for running over any Railway;—the word "Railway" includes all stations and depots of the Railway;—the expression "Railway Company" includes all parties owning, leasing or working any Railway;—and a Railway shall be deemed to come near another when some part of the one is within one mile of some part of the other.

This Act to
form part of
the Railway
Act.

7. This Act shall form part of the Railway Act, and shall be construed as applying to any Railway Company incorporated or to be hereafter incorporated, to which the provisions of the said Railway Act apply, and shall have effect accordingly.

Interest of
purchase
money or rent
of property
necessary for
working a
railway to be
deemed part
of its working
expenses.

8. The interest of the purchase money or rent of any real property acquired or leased by any Railway Company and necessary to the efficient working of such Railway, and the price or purchase money of any real property or thing without which the Railway could not be efficiently worked, shall be considered to be part of the expenses of working such Railway, and shall be paid as such out of the earnings of the Railway.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



24 VIC., CHAP. 18.

The Joint Stock Companies General Clauses Consolidation Act.

[Assented to 18th May, 1861.]

WHEREAS it is expedient to provide for the incorporation of certain general clauses into all Acts incorporating Joint Stock Companies for any of the purposes hereinafter mentioned: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Preamble

1. When not otherwise expressly enacted, this Act shall apply to every Joint stock Company incorporated by any Act hereafter to be passed, for any of the following purposes:—

To what companies this Act shall apply.

1. The carrying on of any kind of manufacturing, ship-building, mining, mechanical or chemical business;

Manufacturing.

2. The erection and maintenance of any building or buildings to be used in whole or part as a Mechanics' Institute, or Public Reading or Lecture Room, or as a place for holding Agricultural or Horticultural fairs or Exhibitions, or as a place for Educational, Library, Scientific or Religious purposes, or as a Public Hotel, or as a place for Baths and Bathhouses;

Buildings for certain purposes.

3. The opening and using of Petroleum, Salt or Mineral Springs;

Mineral Springs.

4. The carrying on of any Fishery or Fisheries in this Province, or the waters thereto adjacent, or in the Gulf of St. Lawrence, and the building and equipping of vessels required for such Fishery or Fisheries;

Fisheries.

5. The carrying on of any general forwarding business, and the construction, owning, chartering or leasing of ships, steamboats, wharves, roads, or other property required for the purpose of such forwarding business;

Forwarding.

6. The supplying of any place with Gas or Water, or with both Gas and Water;

Gas or water.

7. The constructing of any line or lines of Telegraph;

Telegraphs.

8. The acquiring or constructing, and maintaining of any dam, slide, pier, boom or other work necessary to facilitate the transmission of timber down any river or stream in this Province, and the blasting of rocks, the dredging or remov-

Works for transmission of timber.

ing of shoals or other impediments, or the improving otherwise of the navigation of such streams for such purpose ;

Roads.

9. The acquiring or constructing, and maintaining of any plank, macadamized or gravelled road, or of any bridge, pier, wharf, dry dock, or marine railway :

This Act to be incorporated with special Acts incorporating Joint Stock Companies.

And this Act shall be incorporated with every such Act ; and all the clauses and provisions of this Act, unless they are expressly varied or excepted by any such Act, shall apply to the Company thereby chartered so far as applicable thereto, and shall, as well as the clauses and provisions of every other Act incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act.

How such incorporation shall be effected.

2. For the purpose of incorporating this Act, or any of its provisions with a Special Act, it shall be sufficient in such Act to enact, that the clauses of this Act, or such of them as in such Act may be particularly designated to that end, shall be incorporated with such Act ; and thereupon, all such clauses, save in so far as they are expressly varied or excepted by such Act, shall be construed as if the rest of such clauses were formally embodied and reproduced therein.

Meaning of expression "Special Act."

3. The expression "the Special Act," used in this Act, shall be construed to mean any Act incorporating a Company for any of the above purposes, and with which this Act is in manner aforesaid incorporated,—and also all Acts amending such Act.

Interpretation clause.

4. The following words and expressions, both in this and the Special Act, shall have the meanings hereby assigned to them, unless there is something in the subject or context repugnant to such construction, that is to say :—

1. The expression "the Company" shall mean the Company incorporated by the special Act ;

2. The expression "the undertaking" shall mean the whole of the works and business of whatever kind, which the Company is authorized to undertake and carry on ;

3. The expression "Real Estate" or "Land", shall include all Real Estate, messuages, lands, tenements and hereditaments, of any tenure ;

4. The word "Shareholder" shall mean every subscriber or holder of Stock in the Company, and shall extend to and include the personal representatives of the Shareholder.

General corporate powers of every such company.

5. Every Company incorporated for any of the above purposes, under any Special Act, shall be a body corporate under the name declared in the Special Act, and may acquire, hold, alienate and convey, any real estate necessary or requisite for the carrying on of the undertaking of such Company, and shall be invested with all the powers, privi-

leges and immunities necessary to carry into effect the intentions and objects of this Act and of the Special Act, and which are incident to such corporation, or expressed or included in the Interpretation Act.

6. All powers given by the Special Act to the Company shall be exercised, subject to the provisions and restrictions contained in this Act. Powers under Special Act to be subject to this Act.

7. The affairs of every such Company shall be managed by a Board of not less than three, nor more than nine Directors. Board of directors.

8. The persons named as such in the Special Act, shall be the Directors of the Company, until replaced by others duly named in their stead. First directors.

9. No person shall be elected or named as a Director thereafter, unless he is a Shareholder, owning Stock absolutely in his own right, and not in arrear in respect of any call thereon; and the major part of the after Directors of the Company shall, further, at all times, be persons resident in this Province, and subjects of Her Majesty by birth or naturalization. Qualification of directors.

10. The after Directors of the Company shall be elected by the Shareholders, in general meeting of the Company assembled, at such times, in such wise, and for such term, not exceeding two years, as the Special Act, or (in default thereof) the By-laws of the Company, may prescribe. Elective directors.

11. In default only of other express provisions in such behalf, by the Special Act or by-laws of the Company,— As to elections when not otherwise provided for.

1. Such election shall take place yearly, all the members of the Board retiring, and (if otherwise qualified) being eligible for re-election;

2. Notice of the time and place for holding general meetings of the Company shall be given at least ten days previously thereto, in some newspaper published at or as near as may be to the office or chief place of business of the Company;

3. At all general meetings of the Company, every Shareholder shall be entitled to as many votes as he owns shares in the Company, and may vote by proxy;

4. Elections of Directors shall be by ballot;

5. Vacancies occurring in the Board of Directors may be filled for the unexpired remainder of the term, by the Board, from among the qualified Shareholders of the Company;

6. The Directors shall from time to time elect from among themselves a President of the Company; and shall also name, and may remove at pleasure, all other officers thereof.

Provision
in case of
failure of
election.

12. If at any time an election of Directors be not made or do not take effect at the proper time, the Company shall not be held to be thereby dissolved; but such election may take place at any general meeting of the Company duly called for that purpose; and the retiring Directors shall continue in office until their successors are elected.

Powers of di-
rectors.

By-laws for
divers pur-
poses.

How to be
confirmed.

Proviso: call-
ing special
meetings.

Proof of by-
laws

Stock to be
personally.

Transfer.

13. The Directors of the Company shall have full power in all things to administer the affairs of the Company, and may make or cause to be made for the Company any description of contract which the Company may by law enter into; and may from time to time make by-laws not contrary to law, nor to the Special Act, nor to this Act, to regulate the allotment of Stock, the making of calls thereon, the payment thereof, the issue and registration of certificates of Stock, the forfeiture of Stock for non-payment, the disposal of forfeited Stock and of the proceeds thereof, the transfer of Stock, the declaration and payment of dividends, the number of the Directors, their term of service, the amount of their Stock qualification, the appointment, functions, duties and removal of all agents, officers and servants of the Company, the security to be given by them to the Company, their remuneration and that (if any) of the Directors, the time at which and place where the Annual Meetings of the Company shall be held, the calling of meetings, regular and special, of the Board of Directors, and of the Company, the quorum, the requirements as to proxies, and the procedure in all things at such meetings, the imposition and recovery of all penalties and forfeitures admitting of regulation by by-law, and the conduct in all other particulars of the affairs of the Company; and may from time to time repeal, amend or re-enact the same; but every such by-law, and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a General Meeting of the Company duly called for that purpose, shall only have force until the next Annual Meeting of the Company, and in default of confirmation thereat, shall, at and from that time only, cease to have force; Provided always, that one-fourth part in value of the Shareholders of the Company shall at all times have the right to call a special meeting thereof, for the transaction of any business specified in such written requisition and notice as they may issue to that effect.

14. A copy of any by-law of the Company, under their seal, and purporting to be signed by any Officer of the Company, shall be received as *prima facie* evidence of such by-law in all Courts of Law or Equity in this Province.

15. The stock of the Company shall be deemed personal estate, and shall be transferable in such manner only, and subject to all such conditions and restrictions as by this Act, or by the Special Act or by-laws of the Company, shall be prescribed.

16. If the Special Act makes no other definite provision, the Stock thereof shall be allotted when and as the Directors, by by-law or otherwise, may ordain.

Allotting stock.

17. The Directors of the Company may call in and demand from the Shareholders thereof, respectively, all sums of money by them subscribed, at such time and places, and in such payments or instalments, as the Special Act, or as this Act may require or allow; and interest shall accrue and fall due, at the rate of six per centum per annum, upon the amount of any unpaid call, from the day appointed for payment of such call.

Calling in instalments.

18. Not less than ten per centum upon the allotted Stock of the Company shall, by means of one or more calls, be called in and made payable within one year from the incorporation of the Company; and for every year thereafter, at least a further ten per centum shall in like manner be called in and made payable, until the whole shall have been so called in.

Ten per cent. at least to be called in yearly.

19. The Company may enforce payment of all calls and interest thereon, by action in any competent court; and in such action it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is a holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more upon one share or more, stating the number of calls and the amount of each, whereby an action hath accrued to the Company under this Act; and a certificate under their seal, and purporting to be signed by any Officer of the Company, to the effect that the defendant is a shareholder, that such call or calls has or have been made, and that so much is due by him and unpaid thereon, shall be received in all Courts of Law and Equity as *prima facie* evidence to that effect.

Action for calls: what only need to be alleged and proved.

20. If, after such demand or notice as by the Special Act or by-laws of the Company may be prescribed, any call made upon any share or shares be not paid within such time as by such Special Act or by-laws may be limited in that behalf, the Directors, in their discretion, by vote to that effect, reciting the facts, and duly recorded in their minutes, may summarily forfeit any shares whereon such payment is not made; and the same shall thereupon become the property of the Company, and may be disposed of as by by-laws or otherwise they shall ordain.

Forfeiture for non-payment.

Forfeited shares to belong to the company.

21. No share shall be transferable, until all previous calls thereon have been fully paid in, or until declared forfeited for non-payment of calls thereon.

Calls must be paid before transfer.

Shareholders in arrear not to vote. **22.** No Shareholder being in arrear in respect of any call shall be entitled to vote at any meeting of the Company.

Books to be kept by the company. **23.** The Company shall cause a book or books to be kept by the Secretary, or by some other Officer specially charged with that duty, wherein shall be kept recorded—

- What to contain.
1. The names, alphabetically arranged, of all persons who are or have been Shareholders;
 2. The address and calling of every such person, while such Shareholder;
 3. The number of shares of stock, held by each Shareholder;
 4. The amounts paid in, and remaining unpaid, respectively, on the stock of each Shareholder;
 5. All transfers of stock, in their order as presented to the Company for entry, with the date and other particulars of each transfer, and the date of the entry thereof; and—
 6. The names, addresses and calling of all persons who are or have been Directors of the Company; with the several dates at which each ever became or ceased to be such Director.

Directors may disallow transfer of stock in certain cases. **24.** The Directors may refuse to allow the entry into any such book, of any transfer of Stock whereof the whole amount has not been paid in; and whenever entry is made into such book, of any transfer of Stock not fully paid in, to a person not being apparently of sufficient means, the Directors, jointly and severally, shall be liable to the creditors of the Company, in the same manner and to the same extent as the transferring Shareholder, but for such entry, would have been; but if any Director present when such entry is allowed do forthwith, or if any Director then absent do within twenty-four hours after he shall have become aware thereof and able so to do, enter on the minute book of the Board of Directors his protest against the same, and do within eight days thereafter publish such protest in at least one newspaper published at, or as near as may be possible to, the office or chief place of business of the Company, such Director may thereby, and not otherwise, exonerate himself from such liability.

Effect of transfer limited until allowed. **25.** No transfer of Stock shall be valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and as rendering the transferee liable *ad interim* jointly and severally with the transferer, to the Company and their creditors,—until entry thereof has been duly made in such book or books.

Books to be open to shareholders and creditors of company. **26.** Such books shall, during reasonable business hours of every day, except Sundays and statutory and obligatory holidays, be kept open for the inspection of Shareholders and creditors of the Company, and their personal represen-

tatives, at the office or chief place of business of the Company; and every such Shareholder, creditor or representative may make extracts therefrom.

27. Such books shall be *prima facie* evidence of all facts purporting to be thereby stated, in any suit or proceeding against the Company or against any Shareholder. Effect as evidence.

28. Every Director, officer or servant of the Company, who knowingly makes or assists to make any untrue entry in any such book, or who refuses or neglects to make any proper entry therein, or to exhibit the same, or to allow the same to be inspected and extracts to be taken therefrom, shall be guilty of a misdemeanor, and being convicted thereof, shall be punished accordingly. Penalty for making untrue entries.

29. Every Company neglecting to keep such book or books open for inspection as aforesaid, shall forfeit its corporate rights. Forfeiture of rights for not keeping.

30. The Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, in respect of any shares; and the receipt of the shareholder in whose name the same may stand in the books of the Company, shall be a valid and binding discharge to the Company for any dividend or money payable in respect of such shares, and whether or not notice of such trust shall have been given to the Company; and the Company shall not be bound to see to the application of the money paid upon such receipt. Company not bound to see to trusts on shares.

31. Every contract, agreement, engagement or bargain made, and every bill of exchange drawn, accepted or endorsed, and every promissory note and cheque made, drawn or endorsed on behalf of the Company, by any agent, officer or servant of the Company, in general accordance with his powers as such under the by-laws of the Company, shall be binding upon the Company; and in no case shall it be necessary to have the seal of the Company affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque, or to prove that the same was made, drawn, accepted or endorsed, as the case may be, in pursuance of any by-law, or special vote or order; nor shall the party so acting as agent, officer or servant of the Company be thereby subjected individually to any liability whatsoever to any third party therefor: Provided always, that nothing in this section shall be construed to authorize the Company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money, or as the note of a bank. Contracts, bills, notes, &c., by the company, how to be executed. Provide: as to bank-notes.

32. No Company shall use any of its funds in the purchase of stock in any other Corporation, unless in so far as As to holding stock in other corporations.

such purchase may be specially authorized by the Special Act, and also by the Act creating such other Corporation.

Liability of
shareholders.

32. Each shareholder, until the whole amount of his Stock has been paid up, shall be individually liable to the creditors of the Company, to an amount equal to that not paid up thereon; but shall not be liable to an action therefor by any creditor, before an execution against the Company has been returned unsatisfied in whole or in part; and the amount due on such execution shall be the amount recoverable with costs against such Shareholders.

Liability of
shareholders.

34. The shareholders of the Company shall not as such be held responsible for any act, default or liability whatsoever of the Company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatsoever, relating to or connected with the Company, beyond the amount of their respective shares in the capital stock thereof.

As to stock
held by per-
sons in a re-
presentative
capacity.

35. No person holding stock in the Company as an executor, administrator, tutor, curator, guardian or trustee, shall be personally subject to liability as a Shareholder, but the estates and funds in the hands of such person shall be liable in like manner, and to the same extent, as the testator or intestate, or the minor, ward and interdicted person, or the person interested in such trust fund, would be, if living and competent to act, and holding such stock in his own name; and no person holding such stock as collateral security shall be personally subject to such liability, but the person pledging such stock shall be considered as holding the same, and shall be liable as a Shareholder accordingly.

Voting on
such stock.

36. Every such executor, administrator, tutor, curator, guardian or trustee, shall represent the stock in his hands at all meetings of the Company, and may vote accordingly as a Shareholder; and every person who pledges his stock may nevertheless represent the same at all such meetings, and may vote accordingly as a Shareholder.

Penalty for
paying divi-
dends when
company is
insolvent, &c.

37. If the Directors of the Company declare and pay any dividend when the Company is insolvent, or any dividend the payment of which renders the Company insolvent, or diminishes the capital stock thereof, they shall be jointly and severally liable, as well to the Company as to the individual Shareholders and creditors thereof, for all the debts of the Company then existing, and for all thereafter contracted during their continuance in office, respectively; but if any Director present when such dividend is declared do forthwith, or if any Director then absent do within twenty-four hours after he shall have become aware thereof and able so to do, enter on the minutes of the Board of Di-

How a direct-
or may exone-
rate himself.

rectors his protest against the same, and within eight days thereafter publish such protest in at least one newspaper published at, or as near as may be possible to, the office or chief place of business of the Company, such Director may thereby, and not otherwise, exonerate himself from such liability.

38. No loan shall be made by the Company to any Shareholder, and if such be made, all Directors and other officers of the Company making the same, or in any wise assenting thereto, shall be jointly and severally liable to the Company for the amount of such loan,—and also to third parties, to the extent of such loan with legal interest, for all debts of the Company contracted from the time of the making of such loan to that of the re-payment thereof.

Penalty for lending company's money to shareholders.

39. The Directors of the Company shall be jointly and severally liable upon any and every written contract or undertaking of the Company on the face whereof the word "Limited" or the words "Limited Liability" are not distinctly written or printed after the name of the Company where first occurring, and also to the laborers, servants and apprentices of the Company, for all debts not exceeding one year's wages, due for service performed to the Company whilst they are such Directors respectively; but no Director shall be liable to an action upon any such contract or undertaking or for recovery of any such debt, unless the Company has been sued upon or for the same within one year after the same became exigible, nor yet unless such Director is sued thereon or therefor within one year thereafter, nor yet before an execution against the Company has been returned unsatisfied in whole or part; and the amount due on such execution shall be the amount recoverable, with costs, against the Directors.

Liability of directors for certain debts of company.

Limitation of actions.

40. Service of all manner of summons or writ whatever upon the Company, may be made by leaving a copy thereof at the office or chief place of business of the Company, with any grown person in charge thereof, or elsewhere with the President or Secretary thereof; or if the Company have no known office or chief place of business, and have no known President or Secretary, then, upon return to that effect duly made, the Court shall order such publication as it may deem requisite to be made in the premises, for at least one month, in at least one newspaper; and such publication shall be held to be due service upon the Company.

Service of process on a company.

41. Any description of action may be prosecuted and maintained between the Company and any Shareholder thereof; and no shareholder, not being himself a party to such suit, shall be incompetent as a witness therein.

Actions between company and shareholders.

Short title of
this Act.

42. Whenever this Act is referred to, it shall be sufficient, in citing the same, to use the expression "*The Joint Stock Companies General Clauses Consolidation Act.*"

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24 VIC., CHAP. 68.

An Act further to amend the Act to provide for the management and improvement of the Harbour of Montreal, and the deepening of the Ship Channel between Montreal and Quebec.

[Assented to 18th May, 1861.]

WHEREAS the increase of trade has rendered necessary Preamble.
further accommodation of shipping in the Harbour of Montreal, and increased facilities for the regulation and management of the said Harbour, and it is expedient that further powers should be granted to the Commissioners thereof: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. For the purpose of extending and improving the wharves, structures and other accommodations in the said Harbour, below the mouth of the Lachine Canal and not elsewhere, it shall be lawful for the said Corporation to borrow, either in this Province or elsewhere, at par, in such sums and for such number of years, and at such rates of interest, not exceeding eight per cent. per annum, as may be found expedient, any sum or sums of money not exceeding in the whole the sum of one hundred thousand pounds sterling, and to expend the same in the said Harbour, for the said purposes, in such manner as may be best calculated to facilitate trade and increase the convenience and utility of the said Harbour.

Harbour corporation may borrow £100,000 sterling, to improve the harbour.

2. The interest upon the sums of money which may be borrowed under the last preceding section, as well as upon all sums already borrowed for the improvement of the said Harbour, shall be paid out of the revenue arising from the dues, rates and penalties imposed by or under the Act mentioned in the title of this Act, or under any Act amending the same.

How the interest shall be paid.

3. The period of time limited by the seventh section of the Act twentieth Victoria, chapter one hundred and twenty-six, for the exercise by the said Corporation of the rights and privileges conferred upon it by the said section, is extended to one year, in lieu of three months, as provided by the said section.

Period limited by 20 V., c. 126, sec. 7, extended.

Remedy
against ves-
sels injuring
the works of
the corpora-
tion.

4. If any injury be done to any of the quays, buoys, floating stock, steamers or dredging vessels of the said Corporation, used in the said Harbour, or in the said River St. Lawrence between Montreal and Quebec, or elsewhere, or any obstruction whatever be offered or made to the operations of the said Corporation between the said places, by any ships or vessels, or by the carelessness or wantonness of the crew thereof while acting as such crew, or while acting under the orders of their superior officers, it shall be lawful for the said Corporation to seize any such ship or vessel and detain her until the injury so done shall have been repaired by the master or crew thereof, or by other persons interested therein, and until all other damages thereby directly or indirectly caused to the said Corporation, including the expense of following, searching for, discovering and seizing such ship or vessel, have been paid to the said Corporation, for the amount of all which injury, damages, expenses and costs, the said Corporation shall have a preferential lien on such ship or vessel and upon the proceeds thereof or until security shall have been given by the said master to pay such amount for such damages, direct or indirect, and for such injury and costs as may be awarded in any suit which may be brought against him for the same, and he is hereby declared to be liable to the said Corporation for any such injury and damages.

Power to
impose penal-
ties granted
by 18 V. c.
143, extended
to \$40.

5. The power granted to the said Corporation to impose penalties not exceeding five pounds currency, is hereby extended to the imposition of penalties amounting to but not exceeding forty dollars currency, with the same powers in default of payment thereof, and as to the collection and enforcement of payment thereof, and of the cost of proceedings for the collection thereof, as are by the said Act or any other Act amending the same conferred upon the said Corporation in respect of the penalties which they are thereby permitted to impose.

City by-laws
not to restrict
the powers of
Harbour Com-
missioners.

6. Notwithstanding anything contained in the Acts incorporating the City of Montreal, or amending the same, no By-law of the Corporation of the said city shall restrict or affect in any manner the exercise of the powers conferred upon the Harbour Commissioners of Montreal, under the various Acts relating to the said Harbour.

Harbour mas-
ter believing
the report of a
cargo in bulk
to be incor-
rect, may have
it discharged
and weighed
or measured.

7. The Harbour Master shall have power to cause any cargo arriving in or departing from the said Harbour in bulk, to be discharged and weighed or measured, as the case may be, in every case where he shall see reason to believe the report of the weight or measurement thereof to be incorrect; and if the weight or measurement thereof be found to exceed the weight or measurement so reported, in any material degree, the owner of such cargo, and the master of

the vessel containing the same, shall be liable for the expense of such discharging, weighing or measurement in addition to the penalty for making a false report; and such expense may be collected in the same manner and at the same time with such penalty; Provided always, that if such report be found to be materially correct the expense of such discharging, weighing or measuring shall be borne by the Commissioners.

Proviso.

8. Any order or warrant for the seizure or detention of any ship or vessel which, under the said Acts or any of them, might be lawfully made or signed by any Magistrate or Justice of the Peace, may be validly made or signed by the Chairman, or Chairman *pro tempore* of the said Commissioners, who, for the purposes thereof, shall have concurrent jurisdiction with such Magistrate or Justice of the Peace in respect of any such seizure or detention, and of all proceedings for enforcing the same; and the seizure of any ship or vessel and the detention thereof for the causes or purposes for which such seizure or detention is authorized by the said Acts or either of them to be made and maintained, may be made and may take place in any place within the limits of Lower Canada.

By whom order for the seizure of a vessel may be made or signed.

9. The master or person in charge of any vessel who shall make any report to the said Harbour Commissioners or to any of their officers under the provisions of the several Acts respecting the said Harbour or of any By-law made under the authority thereof shall, if required by such Commissioners or by the officer receiving such report, make oath to the correctness of such report, and the Chairman and Secretary of the said Commissioners, or Harbour Master, and any Justice of the Peace are hereby severally authorized to administer such oath; and if any such person, being so required, shall refuse to make oath as aforesaid he shall be exposed to all the penalties imposed by the said Acts or by the By-laws of the said Commissioners upon persons making a false report.

Report of cargo may be required to be made on oath.

Penalty for refusal.

10. All provisions contained in the Act cited in the title to this Act, or in any Act amending it, inconsistent with the present Act, are hereby repealed.

Inconsistent enactments repealed.

11. This Act shall be deemed a Public Act.

Public Act.



25 VIC., CHAP. 26.

An Act to amend the Act for the management of the Toronto Harbour.

[Assented to 9th June, 1862.]

Preamble.

WHEREAS the Commissioners of the Harbour of Toronto have, by their petition, set forth that the Pier at the mouth of the said Harbour, constructed by them for the purpose of protecting the same, can now be made available for other purposes, and is well adapted for the site of Grain Elevators, and that application has been made to them by Railway Companies for a lease of the same, with the view of laying down branch rails on the said Pier and constructing such Elevators, and that such accommodation is much needed by the trade of Toronto, and would greatly benefit the public, and at the same time would bring in some return for the outlay expended by the petitioners, without, in any way, interfering with their proper and legitimate business or duties as such Commissioners, and have prayed to be enabled to enter into the necessary leases, and make the necessary arrangements, with Railway Companies or other parties, for the above purpose; and whereas it is expedient to grant the prayer of the said petition: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Commissioners may lease the pier for certain purposes, and for a certain period.

May agree with any railway company, &c.

1. The Commissioners of the Harbour of Toronto may, at any time, and from time to time, grant leases of the Pier at the mouth of the said Harbour, constructed by them for the purpose of protecting the same, to Railway Companies, or to any persons, for the purpose of constructing Grain Elevators thereon, and laying down branch lines of railway leading to such Grain Elevators; and any such lease may be made and entered into for any period not exceeding twenty-one years; and the said Commissioners may also at any time, and from time to time, make and enter into any agreement or arrangement with any Railway Company, or with any person, for the construction and use of any Grain Elevator or of any Branch line of Railway on or over the said

Pier, and generally for the management and working thereof, when constructed, for any term not exceeding twenty-one years.

2. This Act shall be deemed a Public Act.

Public Act.

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25 VIC., CHAP. 46.

An Act to amend the Act to provide for the improvement and management of the Harbour of Quebec.

[Assented to 9th June, 1862.]

Preamble.

22 V., c. 32,
(1858).

WHEREAS it is expedient to remove doubts which have arisen touching the interpretation to be given to the second section of the Act passed in the twenty-second year of Her Majesty's Reign, chapter thirty-two, intituled : *An Act to provide for the improvement and management of the Harbor of Quebec*, and to amend the provisions of the said Act : Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

Amendment
to sec. 2.

1. After the following words in the second section of the said Act, "all land below the line of high water on the north side of the river St. Lawrence," the words,—“and all land below the line of high water mark on the rivers Cap-Rouge and Montmorency, and on the rivers St. Charles and Beauport, where the tide ebbs and flows,”—shall be added and shall make part of the said section and Act.

Commission-
ers' powers
enlarged as to
imposing
penalties.

2. The Commissioners for the improvement and management of the Harbor of Quebec, are hereby empowered, by any By-law to be hereafter made, to impose penalties not exceeding one hundred dollars currency or sixty days imprisonment, for any one offence, upon persons infringing or contravening the provisions of the said Act, as hereby amended.

Commission-
ers may im-
pose a ton-
nage duty.

3. It shall be lawful for the said Commissioners, by any by-law to be hereafter made, to impose and levy a tonnage duty, not exceeding five cents for every ton measurement, upon all vessels coming from or trading to parts beyond the seas, discharging cargo or ballast, or loading in the Harbor of Quebec, and from time to time to alter the same, provided they do not exceed the rate aforesaid ; and such tonnage duty may be collected and recovered in the manner provided as to the rates and dues authorized by the said Act ; Provided always, that if any such vessel shall not discharge or take on board the whole of her cargo in the Port of Quebec, the tonnage duty shall be levied only proportionately

Proviso: as to
vessels bound
to Montreal.

to the ratio which the portion of cargo so discharged or taken on board bears to the entire quantity of cargo on board such vessel; but no such By-law shall be valid Proviso. until it shall receive the sanction of His Excellency the Governor General in Council, in the manner pointed out by the fifth sub-section of the fourth clause of the Act recited in the first clause of this Act.

4. The Collector or other officer of Her Majesty's Customs at the Port of Quebec shall not grant a clearance outwards from the said Port of Quebec, to any such vessel as aforesaid, unless the master of such vessel produces a certificate from the Secretary-Treasurer of the said Commissioners, or from some other person duly appointed by the said Commissioners to receive tonnage dues shewing that he has paid the tonnage dues imposed under the authority of this Act. Vessel not to be cleared until tonnage duty is paid.

5. Concurrent jurisdiction is hereby given to the Trinity House of Quebec, to hear and try all cases wherein any Justice of the Peace or Magistrate has jurisdiction by the Act herein first above cited and hereby amended. Jurisdiction to Trinity House Quebec.

6. This is a Public Act, and shall be construed as one Act with the Act first above cited and hereby amended, and all words and expressions in this Act shall have the meaning assigned to them in the said Act. How this Act shall be construed.

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26 VIC., CHAP. 53.

An Act to amend the Act twelfth Victoria, chapter one hundred and fourteen, relating to the Quebec Trinity House.

[Assented to 12th May, 1863.]

Preamble.

12 V., c. 114.

WHEREAS the Superintendents of Pilots, mentioned in the Act twelfth Victoria, chapter one hundred and fourteen, have by their petition prayed to be exempted from contributing to the Pilots' Fund, and from deriving any benefit therefrom, and the Corporation of the Pilots for and below the Harbour of Quebec have consented to their request; and whereas it is expedient in consequence to amend the said Act: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

Superintendents of pilots not to contribute to or benefit by the Pilots' Fund.

1. From and after the passing of this Act it shall be lawful for the two Superintendents of Pilots mentioned in the Act twelfth Victoria, chapter one hundred and fourteen, to cease contributing in any way to the Pilots' Fund therein mentioned; and from that time forth the said Superintendents of Pilots and their families shall cease to be entitled to any portion of the said fund or of the revenue arising therefrom, and all the contributions which the said Superintendents of Pilots have made and paid to the said fund up to the time of the passing of this Act shall be lost to them and shall become the property of the said fund.

Public Act.

2. This Act shall be deemed a Public Act.

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27-28 VIC., CHAP. 12.

An Act to replace the improvements in the Navigation of the River St. Lawrence, between the Harbours of Quebec and Montreal, under the control of the Commissioner of Public Works.

[Assented to 30th June, 1864.]

WHEREAS under the provisions of the Acts thirteenth and fourteenth Victoria, chapter ninety-seven, sixteenth Victoria, chapter twenty-four, eighteenth Victoria, chapter one hundred and forty-three, and other Acts of the Provincial Parliament, the works undertaken for the improvement of the river St. Lawrence, between the harbours of Quebec and Montreal, by deepening the channel thereof through Lake St. Peter and at or near Isle Platte, and wherever else it might require deepening, were placed under the superintendence and control of the corporation of the harbor commissioners of Montreal, and certain steamers, dredging vessels, machinery, tools and implements constructed or acquired by this Province for the said works were placed at the disposal of the harbor commissioners, who were authorized to raise and have raised certain sums of money for defraying the cost of the said works, by the issue of debentures of which the principal and interest were not guaranteed by the Province but were to be payable out of a tonnage duty on vessels passing through Lake St. Peter, which has been imposed by the Governor in Council under the said Acts at the instance of the said harbor commissioners, and by them received and applied towards such payment; and whereas in addition to the said tonnage duty, other large sums of money have been advanced by this Province to the said harbor commissioners to defray the interest on the said debentures and to redeem such of them as had matured, and otherwise to defray the expenses of the said works, on condition that the said improvements should be completed by the said harbor commissioners with the sums so raised and advanced as aforesaid; and whereas it is expedient that the said works and improvements should be replaced under the control of the Commissioner of Public Works, to be completed and dealt with as public provincial works, and that the payment of the principal and interest of the debentures issued by the said harbor commissioners

Preamble.

under the Acts and for the purposes aforesaid should be assumed by the Province, subject to the provisions herein-after made: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

The said works to become provincial works after 1st July, 1864.

Plant, &c., to be delivered up.

1. From and after the first day of July next after the passing of this Act, the works mentioned in the preamble to this Act shall be and are hereby placed under the control and management of the Commissioner of Public Works and shall be dealt with as public provincial works; and all steamers, dredging vessels, machinery, tools and implements constructed or acquired by the Province and placed under the control of the corporation of the Montreal Harbor Commissioners, or acquired by the said corporation for the said works, with money raised or received under the Acts mentioned in the preamble or advanced by the Province, shall be delivered up by the said corporation to the Commissioner of Public Works, and shall be provincial property.

Debentures issued by Harbour Commissioners for the said works to be assumed by the Province.

Commissioners to pay over balance.

2. The principal and interest of all debentures now outstanding, issued by the said corporation of the Montreal Harbor Commissioners, under any of the Acts mentioned in the preamble to this Act, and the proceeds whereof have been applied towards defraying the costs of the works and improvements aforesaid, shall be assumed by the Province and may be paid as the same become due, out of any unappropriated moneys forming part of the Consolidated Revenue Fund, and the said corporation shall be discharged from all obligation to pay the same; and the said corporation shall account for and pay over to the Receiver General, any balance remaining in their hands of the proceeds of the said debentures or of the sums advanced by the Province, or of the tonnage duty imposed under any of the said Acts, or of any moneys otherwise received by the said corporation for defraying the cost of the said works and improvements.

Tonnage duty to continue until repealed, &c.

General regulations to apply.

3. The tonnage duty imposed under any of the said Acts, on vessels passing through Lake St. Peter, shall continue in force until repealed or altered by order of the Governor in Council, and shall be collected by the collectors of customs at the ports of Montreal and Quebec as tolls imposed under the Act respecting Public Works, and no vessel upon which any such duty is payable, shall be entered or cleared at either of the ports aforesaid until such duty has been paid; and all general regulations made under the said Act for the use of public works, and all penalties, provisions and powers for enforcing the same, shall apply to the works hereby replaced under the control of the Commissioner of Public Works, unless and until it shall be otherwise ordered by the Governor in Council.



27-28 VIC., CHAP. 18.

An Act to amend the laws in force respecting the Sale of Intoxicating Liquors and the issue of Licenses therefor, and otherwise for repression of abuses resulting from such sale.

[Assented to 30th June, 1864.]

WHEREAS it is expedient to amend the laws in force in this Province respecting the sale of Intoxicating Liquors and the issue of Licenses therefor, and otherwise to provide for the repression of abuses resulting from such sale, the whole as hereinafter is set forth: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

PROVISIONS AS TO LOCAL PROHIBITION.

1. The Municipal Council of every county, city, town, township, parish or incorporated village in this Province, besides the powers at present conferred on it by law, shall have power at any time to pass a by-law for prohibiting the sale of intoxicating liquors and the issue of licenses therefor, within such county, city, town, township, parish or incorporated village, under authority and for enforcement of this Act, and subject to the provisions and limitations hereby enacted.

Every county or local council may prohibit the sale of intoxicating liquors.

2. Such by-law shall be drawn up and passed in ordinary form; and shall not have embodied therein any other provision than the simple declaration, that the sale of intoxicating liquors and the issue of licenses therefor, is by such by-law prohibited within such county, city, town, township, parish or incorporated village, under the authority and for enforcement of this Act.

Form of by-law.

3. Any Municipal Council, when passing such by-law, may order that the same be submitted for approval to the Municipal Electors of the municipality; and in that case, the same shall not take effect, unless approved:

May be submitted to electors.

2. Any thirty or more duly qualified Municipal Electors of any municipality in Upper Canada.—or if the by-law is for a county, then of each municipality in the county.—may at any time by a requisition in the form A 1. hereto

Any 30 or more electors may require the by-law to be so submitted.

appended, or to the like effect, signed by them and delivered on their behalf to the Clerk of the municipality, require that any by-law which the Municipal Council thereof may pass under authority and the enforcement of this Act, at any time within one year from the date of such requisition, be submitted for the like approval; and in that case such by-law shall not take effect unless approved.

In certain cases any 30 electors may propose such by-law, and demand a poll to determine whether it shall be adopted.

4. Any thirty or more duly qualified Municipal Electors of any city, town, township, parish or incorporated village, the Council whereof has not passed a by-law under authority and for enforcement of this Act, or after passing has repealed the same,—or wherein such by-law, having been submitted for approval or for adoption, (as the case may be,) to the Electors, either has not been approved or adopted, or after approval or adoption has been repealed,—may at any time (not being, in the latter case, less than two full years after such vote of non-approval or non-adoption, or after such repeal) by a requisition in the form A 2, hereto appended, or to the like effect, signed by them and delivered on their behalf to the Clerk or Secretary-Treasurer of the municipality, propose a by-law to that end, for adoption by the Electors thereof, and require that a poll be taken to determine whether or not they will adopt the same:

Their requisition to be filed.

2. Such Clerk or Secretary-Treasurer, on receiving any such requisition, shall immediately endorse upon the same a certificate under his hand, of the date of the delivery thereof to him; and shall file and keep the same among the records of the Municipal Council of the municipality.

Notices of the holding of such poll: and when and where it will be held.

5. On the passing of any such order for the submission of a by-law, or the passing of any by-law whereof the submission has been so required, or the receipt of any such requisition for the adoption of a by-law, (as the case may be,) the Clerk or Secretary-Treasurer shall forthwith cause such by-law, or such requisition for adoption of a by-law, (as the case may be,) to be published for four consecutive weeks, in some newspaper published weekly or oftener within the municipality, or if there is no such newspaper published in the municipality, then in some newspaper published as near thereto as may be, and also by posting up copies of the same in at least four public places in the municipality, and if the by-law is for a county, then in at least four public places in each municipality in the county,—with a notice signed by him, signifying that on some day within the week next after such four weeks, at the hour of ten in the forenoon, and at some convenient place (or if the by-law is for a county, places) named in the notice, a meeting of the Municipal Electors of the municipality (or if the by-law is for a county, then for each municipality in the county) will be held, for the taking of a poll, to decide whether or not

the by-law is approved, or is adopted, (as the case may be,) by such Electors :

2. If the by-law is for a county, such poll shall not be taken for the whole county at one place, but shall be taken in each of the several municipalities of the county, respectively :

If it be for a county.

3. At such meeting, the Mayor or Reeve of the municipality in which the same is held—or in his absence, such other member of the Municipal Council thereof as may be chosen by the meeting—or if no such member is present, then any Municipal Elector who may be chosen by the meeting—shall preside, and shall have all the powers for the preservation of the public peace, which by law are vested in the person presiding at any municipal election in Lower Canada, or in the Returning Officer at any municipal election in Upper Canada, according as the meeting is in Lower or in Upper Canada ; and the Clerk or Secretary-Treasurer of the municipality shall attend thereat with the assessment rolls of the municipality then in force, or certified copies thereof ; and the only business to be transacted shall be the taking of a poll, as signified by such notice :

Who shall preside ; and his powers.

Clerk or secretary-treasurer to attend with assessment rolls.

4. Each Elector desiring to vote shall present himself in turn to the person presiding, and shall give his vote "yea" or "nay,"—the word "yea" meaning that he votes for the by-law, and the word "nay" that he votes against the same ; and every vote given shall be recorded in a poll-book by the Clerk or Secretary-Treasurer acting as poll-clerk, or in his absence, by such person as may be named to act as poll clerk by the person presiding ; but no person's vote shall be recorded, unless he appears by the assessment rolls to be a duly qualified Municipal Elector, and further makes oath (if thereto required), in Lower Canada, in terms of the twelfth sub-section of the thirty-third section of the Lower Canada Consolidated Municipal Act,—and in Upper Canada, in terms of the ninth sub-section of the ninety-seventh section of the Act chaptered fifty-four of the Consolidated Statutes for Upper Canada :

How electors shall vote ; and what oath they shall take.

5. If at any time after the opening of the poll, one half hour elapses without a vote being offered, the poll may be closed :

Closing poll for want of voters.

6. Unless for that cause closed earlier, the poll shall be kept open till the hour of five in the afternoon of the day of the opening thereof, and no longer, if the names of the qualified Municipal Electors on the assessment rolls of the municipality are not more than four hundred in number,—and until the like hour of the next day (Sundays and holidays excluded), if such names are more than four hundred and not more than eight hundred in number ; and so on, allowing one additional day for each additional four hundred names :

Duration of poll in other cases.

7. Until closed in terms of one or other of the foregoing sub-sections, the poll shall be adjourned daily at the hour

Adjourning polls.

of five in the afternoon, to the hour of ten in the forenoon of the next day—Sundays and holidays excluded :

Counting the votes and certifying the result:—deposit of poll-book.

8. At the close of the poll, the person presiding shall count the "yeas" and the "nays," and ascertain and certify on the face of the poll-book, the number of votes given for and against the by-law respectively, and such certificate shall be countersigned by the poll clerk; and the poll-book, with such certificate therein, shall be deposited with and kept by the Clerk or Secretary-Treasurer of the municipality to be affected by the by-law, among the records of the Municipal Council thereof:

If the by-law is for a county.

9. If the by-law is for a county, the Warden of the county, so soon as the poll-books of the several municipalities therein are so deposited, shall count and add up from each poll-book the total number of the "yeas" and of the "nays," respectively, in all the municipalities forming such county, and shall certify the same in writing; and such certificate shall be countersigned by the Clerk or Secretary-Treasurer of the county, and shall be deposited and kept with the poll-books, among the records of the County Council:

Majority required for adoption.

10. If one-half or more of all the votes polled are against the by-law, the same shall be held to be not approved, or not adopted, as the case may be:

The same.

11. If more than half of all the votes polled are for the by-law, the same shall be held to be approved, or adopted, as the case may be:

Ordinary publication not required in L. C.

12. It shall not be necessary, in Lower Canada, that any by-law so approved or adopted, as the case may be, should be published in the manner required by law in the case of ordinary by-laws:

By-law so adopted may be repealed; but in a certain manner only and on certain conditions.

13. A by-law so approved, or adopted, as the case may be, may be repealed by a by-law of the Municipal Council of the municipality affected thereby; but such repealing by-law shall be submitted for approval to the Electors, in the manner and with the formalities prescribed by the foregoing sub-sections, and shall not take effect unless approved by a majority of the Electors voting thereon; nor, if any such repealing by-law (upon being submitted to the Electors) is not so approved, shall any other repealing by-law be submitted for the like approval, within the full term of two years thereafter.

Copy to be delivered to Collector of Inland Revenue.

6. Every by-law passed under authority and for enforcement of this Act, shall be communicated by delivery of a copy thereof, certified by the Clerk or Secretary-Treasurer, to the Collector of Inland Revenue within whose official district the municipality affected thereby is situate:

Certificate to be indorsed.

2. Whenever such by-law has been approved by the Electors, there shall be endorsed or written upon the copy so delivered, a certificate of the fact, under the hand of the Clerk or Secretary-Treasurer, in the form B. 1, hereto appended, or to the like effect:

3. Whenever such by-law has been adopted by the Electors, a copy of the requisition therefor, certified by the Clerk or Secretary-Treasurer, together with a certificate under his hand thereon endorsed or written, of the fact of its adoption, in the form B. 2. hereto appended, or to the like effect, shall be taken as a duly certified copy of the by-law, for all purposes of such delivery, and for all other purposes whatever.

Certified copies of by-law to be evidence.

7. Every such county by-law shall also, at the same time, be communicated by the like delivery, to the Clerk or Secretary-Treasurer of each municipality in the county, who shall file and keep the same among the records of the Municipal Council thereof.

Copy to the clerk of each municipality in the county.

8. As regards the prohibition of issue of licenses, every such by-law shall come into force from the day of the communication thereof to the Collector of Inland Revenue; and as regards the prohibition of such sale, and otherwise, every such by-law,—if on the day of such communication there is in force within the municipality any other by-law for prohibiting and preventing such sale, under authority of the Lower Canada Consolidated Municipal Act, or of the Act chaptered fifty-four of the Consolidated Statutes for Upper Canada, as the case may be, shall come into force so as to become substituted for, and to repeal, such other by-law from that day,—or if on that day there is no such other by-law in force, shall come into force in Lower Canada, from the first day of May, and in Upper Canada from the first day of March, next after that day; and every such by-law shall continue in force, in Lower Canada, until the first day of May, and in Upper Canada until the first day of March, next after the repeal thereof:

When the by-law shall come into force.

Its duration.

2. If at the time of the coming into force of any county by-law, passed under authority and for enforcement of this Act, there is in force within any municipality forming part of such county, any other by-law passed under authority and for enforcement of this Act, the operation of such mentioned by-law shall be and remain suspended for so long as the county by-law continues in force,—but shall revive, in default of express repeal thereof, should the county by-law be repealed.

If there is a by-law of a local municipality in force.

9. No such by-law shall be repealed, within the full term of one year from the day of the communication thereof to the Collector of Inland Revenue.

Not to be repealed within a certain time.

10. The Municipal Councils of any two or more neighboring municipalities, wherein any such by-law is in force, may each of them, by a further by-law, concur in and confirm, mutually, such by-law or by-laws of the other or others of such municipalities:

Concurrence of neighbouring municipalities.

Form of concurrence.

To be communicated to excise officers.

By-law to be submitted to electors.

How only to be repealable.

No license to be issued while a prohibitory liquor law remains in force in L. C.

Nor any penalty for want of a license, under Con. Stat. L. C., c. 6.

The same in U. C.

While the by-law is in force no intoxicat-

2. Such further by-law shall not have embodied therein any other provision than the simple declaration that the by-law or by-laws of the neighboring municipality or municipalities in question are thereby concurred in and confirmed; and shall be communicated in like manner to the Collector of Inland Revenue, or Collectors, as the case may be:

3. Such further by-law shall be submitted for approval to the Electors, in the manner and with the formalities prescribed by the fifth section of this Act,—and shall not take effect, unless approved by a majority of the electors voting thereon:

4. No by-law so mutually concurred in and confirmed shall thereafter be repealed, unless with the like concurrence in and confirmation of such repeal, on the part of the municipalities in question.

11. In Lower Canada, from the day of communication to him of any by-law passed under authority and for enforcement of this Act, and for so long thereafter as the same continues in force, no Collector of Inland Revenue shall issue any license to take effect within the county, city, town, township, parish or incorporated village, affected by such by-law,—either for keeping an inn, tavern, or other house or place of public entertainment, and for retailing whisky or any spirituous liquors, wine, ale, beer, porter, cider, or other vinous or fermented liquors,—or for keeping an inn, tavern, or other house or place of public entertainment, and for retailing wine, ale, beer, porter, cider, or other vinous or fermented liquors, but not brandy, rum, whisky or other spirituous liquors,—or for vending or retailing in any store or shop, brandy, rum, whisky, or other spirituous liquors, and wine, ale, beer, porter, cider, or other vinous or fermented liquors, in a quantity not less than three half-pints at any one time; and no person shall be liable by reason of his not having therein any license of such description, to the penalty of fifty dollars, imposed by the twenty-second section of the Act chaptered six of the Consolidated Statutes for Lower Canada, intituled: *An Act respecting tavern keepers and the sale of intoxicating liquors*:

2. In Upper Canada, from the like day and for the like period, no Collector of Inland Revenue shall issue, to take effect within the like limits,—either any tavern license, that is license for the retail of spirituous, fermented or other manufactured liquors to be drunk in the inn, ale-house, beer-house, or other house of public entertainment in which the same is sold,—or any shop-license, that is licensé for the retail of such liquors in shops, stores or places other than inns, ale-houses, beer-houses or places of public entertainment.

12. From the day on which such by-law takes effect for other purposes, as aforesaid, and for so long thereafter as

the same continues in force, no person, unless it be for exclusively medicinal or sacramental purposes, or for *bona fide* use in some art, trade or manufacture, or as hereinafter authorized by the third or by the fourth sub-section of this section, shall within such county, city, town, township, parish or incorporated village, by himself, his clerk, servant or agent, expose or keep for sale, or directly or indirectly, on any pretence or by any device, sell or barter, or in consideration of the purchase of any other property give, to any other person, any spirituous or other intoxicating liquor, or any mixed liquor capable of being used as a beverage and part of which is spirituous or otherwise intoxicating:

2. And neither any license issued to any distiller or brewer,—nor yet any license for retailing on board any steamboat or other vessel, brandy, rum, whisky, or other spirituous liquors, wine, ale, beer, porter, cider, or other vinous or fermented liquors,—nor yet any license for retailing on board any steamboat or other vessel, wine, ale, beer, porter, cider, or other vinous or fermented liquors, but not brandy, rum, whisky, or other spirituous liquors,—nor yet any other description of license whatever,—shall in any wise avail to render legal any act done in violation of this section:

3. Provided always, that any licensed distiller or brewer, having his distillery or brewery within such county, city, town, township, parish, or incorporated village, may thereat expose and keep for sale such liquor as he shall have manufactured thereat, and no other; and may sell the same thereat, but only in quantities not less than five gallons at any one time, to be wholly removed and taken away therefrom in quantities not less than five gallons at a time; and provided also, that any such licensed brewer may sell bottled ale or porter of such manufacture in quantities not less than one dozen bottles of at least three half pints each at any one time, to be wholly removed and taken away in quantities not less than one dozen such bottles at a time:

4. Provided also, that any merchant or trader having his store or place for sale of goods within such county, city, town, township, parish or incorporated village, may thereat keep for sale and sell intoxicating liquor, but only in quantities not less than five gallons (or in the case of bottled wine, ale or porter, than one dozen bottles of at least three half pints each) at any one time, to be wholly removed and taken away in quantities not less than five gallons (or in the case of bottled wine, ale or porter, than one dozen such bottles) at a time,

13. Whoever, by himself, his clerk, servant or agent, exposes or keeps for sale, or directly or indirectly, on any pretence or by any device, sells, or barters, or in consideration of the purchase of any other property, gives, to any other person, any spirituous or other intoxicating liquor, or any

ing liquor to be sold on any pretence, for any but medicinal or sacramental purposes, &c.

Licenses to be of no effect.

Not to prevent sale in quantities of five gallons, by licensed persons, at place of manufacture.

Proviso: in favour of brewers.

Proviso: in favour of merchants for sale in certain quantities.

Selling by the intervention of others forbidden, &c.

Penalty.

The agent
equally guilty
with the prin-
cipal.

mixed liquor capable of being used as a beverage and a part of which is spirituous or otherwise intoxicating, in violation of the twelfth section of this Act, shall incur a penalty of not less than twenty, nor more than fifty dollars for each such offence ; and whoever, in the employment or on the premises of another, so exposes or keeps for sale, or sells, or barter, or gives, in violation of the said section, shall be held equally guilty with the principal, and shall incur the same penalty.

By whom pen-
alties may be
recovered.

14. Any prosecution for such penalty may be brought by or in the name of the Collector of Inland Revenue within whose official district the offence was committed,—or by or in the name of the corporation of the municipality wherein the offence was committed,—or by or in the name of any person, whether authorized by the Council of such municipality or not ; and where the by-law is a county by-law, the corporation of the county, equally with that of the municipality comprised therein and within which the offence was committed, may prosecute, or may authorize any person to prosecute :

Excise officer
bound to pro-
secute.

2. It shall be the duty of such Collector of Inland Revenue to bring such prosecution, whenever he shall have reason to believe that such offence has been committed, and that a prosecution therefor can be sustained, and would not subject him to any undue measure of responsibility in the premises :

And before
what tri-
bunal.

3. Such prosecution may be brought before any Stipendiary Magistrate, or before any two other Justices of the Peace for the district in Lower Canada, or for the county or union of counties in Upper Canada, wherein the offence was committed,—or, if the offence was committed in the district either of Montreal or of Quebec, then before the Recorder or Judge of the Sessions of the Peace at Montreal or Quebec, as may be, or, if the offence was committed in any other district in Lower Canada, then before the Sheriff of such district,—or, if the offence was committed in any city or town in Upper Canada having a Recorder or Police Magistrate, then before such Recorder or Police Magistrate,—or if the offence was committed in any city or town in Upper Canada not having a Recorder or Police Magistrate, then before the Mayor thereof :

If before a
stipendiary
magistrate,
&c.

4. If such prosecution is brought before any such Stipendiary Magistrate, Recorder, Judge of the Sessions of the Peace, Sheriff, Police Magistrate or Mayor, no other Justice shall sit or take part therein :

If before two
justices of the
peace.

5. If such prosecution is brought before any two other Justices of the Peace, the summons shall be signed by both of them ; and no other Justice shall sit or take part therein, unless by reason of their absence, or the absence of one of them, nor yet in the latter case, unless with the assent of the other of them :

6. In the next following twenty-four sections, the word "Justice" includes any such Stipendiary Magistrate, Recorder, Judge of the Sessions of the Peace, Sheriff, Police Magistrate, or Mayor, or any such two other Justices of the Peace, as the case may be.

Interpretation as to next 24 sections.

15. Every such prosecution shall be commenced within three months after the alleged offence, and shall be heard and determined in a summary manner, either upon the confession of the defendant, or upon the evidence of one or more witnesses.

Limitation and form of suit.

16. It shall not be necessary, in any such prosecution, to set forth or mention on the face of the complaint, summons, conviction, warrant of distress or warrant of commitment, the by-law bringing the municipality within the special purview of this Act; but such complaint, summons, conviction and warrants may be in the forms C, D, E, F and G respectively, hereto appended, or to the like effect; and unless the defendant specially puts in issue the fact of such by-law being in force, such fact shall be presumed by the Justice; and if such fact is so put in issue, the production of a copy of such by-law, certified under the hand of the Clerk or Secretary-Treasurer of the Municipality, and having thereon a certificate under the hand of the same officer, of the due publication (if requisite), and communication to the Collector of Inland Revenue of such by-law, or of such communication only, if publication thereof was not requisite, shall be conclusive proof of the passing and of the tenor thereof, and also of such publication and communication thereof, the whole as so certified; and no fact so certified touching such by-law shall be incidentally put in issue or questioned in the course of any such prosecution.

What only it shall be necessary to insert in the complaint, &c.

As to allegation and proof of by-law.

17. Two or more offences, by the same party, may be included in any such complaint, provided the time and place of each offence is stated; and in that case, the forms aforesaid shall be altered, so far as need may be, accordingly:

Several offences may be included.

2. But whatever may be the number of the offences so included in one complaint, the maximum of penalty impossible for them all shall in no case exceed one hundred dollars.

Proviso: total penalty limited.

18. If in any such case the defendant fails to appear as required by the summons, the Justice may proceed *ex parte* to the consideration and hearing thereof, and may adjudge therein, as fully and effectually to all intents as though the defendant had duly appeared in obedience to the summons.

Ex parte if defendant does not appear.

19. Any such complaint may be amended before final hearing, in any matter of form or substance, upon applica-

Amendment of complaint.

If adjudged too defective.

tion to that effect, by or for the prosecutor, and without costs, unless otherwise specially ordered by the Justice; and on such amendment being made, the defendant (should he require it) may have a further delay to plead to the merits, or for plea and proof, as may be ordered; and if the complaint, in the opinion of the Justice, is so defective that a legal conviction cannot be based upon it, and is not amended, the Justice may dismiss the case, with or without costs in his discretion.

Not to be dismissed for informality, &c., but adjourned in certain cases.

20. No such prosecution shall otherwise be dismissed for any defect, informality, error or omission; but if it appears that the defendant has been, or may have been, materially misled thereby, the Justice may, on such terms as he thinks fit, adjourn the further proceedings in the case to a future day.

No costs against prosecutor if probable cause.

21. If any such prosecution is dismissed, the Justice, should he be of opinion that there was probable cause for the complaint, shall not award to the defendant costs against the prosecutor.

Service of process, &c.

22. Every summons or other process, proceeding, or paper, in any such case, may be served, and the service thereof certified under his oath of office, by any bailiff, or by any constable or peace officer, duly appointed for the locality wherein the same is pending.

Depositions may be reduced to writing and filed.

23. In every such case, if the Justice so orders, or if either party so requires, the depositions of the witnesses shall be reduced to writing by the Justice, or by such clerk as the Justice may appoint to that end, and shall be filed of record in the cause; such clerk shall be entitled to charge and receive, at the rate of ten cents for each hundred words of evidence so reduced to writing, or of two dollars *per diem*, in the discretion of the Justice,—to be entered in taxation, and paid by either party, or partly by each party, as the conviction or judgment in the case may ordain; and if no conviction or judgment is rendered therein within two months after the taking of such evidence, then the fees of such clerk shall be paid in equal shares by each party.

Fees to clerk employed, and how paid.

Proof of precise date of offences dispensed with.

24. It shall not be necessary, in any such case, to prove that an offence was committed on the precise day specified, in order to obtain a conviction, provided it is proved that the same was committed on or about such day, and before the date of the complaint.

Delivery of liquor in otherwise than private houses or to residents to be

25. In all such cases, the delivery of intoxicating liquor of any kind in or from any building, booth or place, other than a private dwelling house or its dependencies, or in or from any dwelling house or its dependencies, if any

part thereof is used as a tavern, eating house, grocery, shop, or other place of common resort.—such delivery in either case being to any one not *bonâ fide* a resident therein,—shall *primâ facie* be deemed evidence of and punishable as a sale in violation of the twelfth and thirteenth sections of this Act; and any such delivery in or from a private dwelling house or its dependencies, or in or from any other building, booth or place whatever, to any one whether resident therein or not, with payment or promise of payment, either express or implied, before, on or after such delivery, shall *primâ facie* be deemed evidence of and punishable as a sale in violation of the said sections.

deemed evidence of a sale.

What shall be so deemed in private houses or to residents.

26. In any such case, the Justice may summon any person represented to him as a material witness in relation thereto; and if such person refuses or neglects to attend pursuant to such summons, the Justice may issue his warrant for the arrest of such person, and he shall thereupon be brought before the Justice; and if he refuses to be sworn or to affirm, or to answer any question touching the case, he may be committed to the common gaol, there to remain until he consents to be sworn, or to affirm, and to answer.

Summoning witnesses: committal of those refusing to answer.

27. No person shall be incompetent on account of interest in the event of any such case, to give evidence therein.

Interest no excuse

28. Any person examined or called as a witness in any such case, shall be bound to answer all questions put to him, and which the Justice deems relevant, notwithstanding his answers may disclose facts subjecting or tending to subject him to any penalty or other criminal proceeding; but his answers shall not be used against himself in any prosecution or criminal proceeding.

Witnesses bound to answer all relevant questions.

29. Any person who, either before or after the summons of any witness in any such case, tampers with such witness, or by any offer of money, or by threat or otherwise, directly or indirectly, induces or attempts to induce any such person to absent himself or herself or to swear falsely, shall be liable to a penalty of fifty dollars for each such offence.

Penalty for tampering with witnesses.

30. Whenever judgment is rendered under the said twelfth and thirteenth sections of this Act, for the amount of any penalty and costs, the Justice, if he sees fit, may call on the defendant to declare whether or not he possesses sufficient goods and chattels to satisfy the same,—and if the answer is affirmative, may further examine him as to the sufficiency of such goods and chattels, and as to their being or not being readily available for seizure under a warrant of distress; and if the defendant either answers in the negative, or refuses to answer, or fails to answer to the satisfaction of the Justice, he may be forthwith imprisoned

Defendant may be examined as to his means of satisfying the judgment.

Imprisonment if his answers are not satisfactory.

under the warrant of the Justice, in the common gaol of the district, or county, or union of counties, for a period of not less than one nor more than three months, counting from the day of his arrival as a prisoner at such gaol; but the defendant, in that case, may at any time obtain his liberation from such imprisonment, by making full payment of such amount and of all subsequent costs.

Imprisonment if defendant is absent and does not appear to have goods to satisfy judgment.

31. If the defendant is not present at the time of the rendering of such judgment, and it is made to appear to the satisfaction of the Justice, by affidavit, that the issue of a warrant of distress would be likely to fail of realizing the full amount thereof, in penalty and costs, the defendant may be forthwith imprisoned in such common gaol under warrant of the Justice, for a period of not less than one nor more than three months, counting from the day of his arrival as a prisoner at such gaol; but the defendant, in that case, may at any time obtain his liberation from such imprisonment, by making full payment of such amount and of all subsequent costs.

Execution if defendant has sufficient goods.

32. If the Justice does not so interrogate the defendant, being present,—or if the defendant being interrogated shows that he possesses a sufficiency of available goods and chattels to satisfy the amount of the judgment in penalty and costs,—or if in the absence of the defendant it is not shown to the satisfaction of the Justice, that the issue of a warrant of distress would be likely to fail of realizing the full amount of the judgment, in penalty and costs,—then in default of immediate payment, such amount shall be levied by warrant of distress out of the goods and chattels of the defendant; and in default of such goods and chattels or in case of their being insufficient, the defendant shall be imprisoned in such common gaol, under warrant of the justice, for a period of not less than one nor more than three months, counting from the day of his arrival as a prisoner at such gaol; and the defendant, in that case, may at any time obtain his liberation from such imprisonment, by making full payment of such amount and of all subsequent costs.

In default of goods, imprisonment.

Liberation on payment in full.

Application of penalties in L. C.

If prosecuted by Collector of Revenue.

33. In Lower Canada, such penalties shall be disposed of in the following manner, that is to say:—

1. If the prosecution was brought by or in the name of a Collector of Inland Revenue, and not under authorization from the Council of a municipality, two third parts shall belong to and be retained by such collector,—but subject to the obligation of paying over one of such two third parts to any person on whose information he may have instituted the prosecution; and the remaining third part shall, by the Collector, be paid over to the Sheriff of the district wherein the offence was committed, and shall form part of the Building and Jury Fund thereof:

2. If the prosecution was brought by or in the name of the corporation of a municipality, or by or in the name of any person authorized by the Council thereof, two third parts shall belong to such corporation; and the council of the municipality may pay over not more than one of such two third parts, either to such person, or to any other person upon whose information the prosecution may have been instituted; and the remaining third part shall, by the corporation, be paid over to the Sheriff of the district wherein the offence was committed, and shall form part of the Building and Jury Fund thereof:

If prosecution is in the name of a municipality.

3. If the prosecution was brought by or in the name of any person not so authorized, the penalty shall be paid over to the Sheriff of the district wherein the offence was committed, and shall form part of the Building and Jury Fund thereof.

If brought by another person.

34. In Upper Canada, all such penalties shall be disposed of in the following manner, that is to say:—

Application of penalties in U. C.

1. If the prosecution was brought by or in the name of a Collector of Inland Revenue, and not under authorization from the Council of a municipality, two third parts shall belong to and retained by such Collector,—but subject to the obligation of paying over one of such two third parts to any person on whose information he may have instituted the prosecution; and the remaining third part shall by the Collector be paid over to the Receiver General, for the Upper Canada Building Fund:

If prosecuted by a Collector of Inland Revenue.

2. If the prosecution was brought by or in the name of the corporation of a municipality, or by or in the name of any person authorized by the Council thereof, the whole shall belong to such corporation; and the Council of the municipality may pay over not more than one half thereof, either to such person, or to any other person upon whose information the prosecution may have been instituted:

If by a municipality.

3. If the prosecution was brought by or in the name of any person not so authorized, the penalty shall belong to the corporation of the municipality whose by-law is thereby enforced; and in that case, the Council may pay over to any other person upon whose information the prosecution may have been instituted, not more than one-half of the whole penalty or may apply the same to Municipal purposes as they see fit.

If by a private party.

35. Any persons bringing such prosecution under authorization from a Municipal Council, shall be indemnified by the corporation of the municipality so authorizing him, for all costs therein, whatever may be the result of the prosecution:

In indemnification of prosecutors authorized by municipalities as to costs.

2. In Upper Canada any person bringing such prosecution to a successful issue, without having been so authorized, shall be indemnified by the corporation whose by-law

In U. C. without such authority.

is thereby enforced, for any amount of costs which, without default on his part, he may have failed to recover from the defendant :

In L. C.

3. In Lower Canada, under like circumstances, any such person shall be indemnified in the like manner, but only to the extent of such moneys as within the current year may be paid into the funds of such corporation on account of penalties recovered under such prosecutions :

The same.

Cost of conveying to gaol.

4. Whenever any person is committed to gaol under the thirtieth, thirty-first, or thirty-second section of this Act, the cost of his arrest and conveyance to gaol shall in like manner be borne by the corporation whose by-law is thereby enforced.

No *certiorari* allowed nor appeal in certain cases.

36. No conviction, judgment or order, in any such case, shall be removed by *certiorari* or otherwise, into any of Her Majesty's Superior Courts of Record ; nor shall any appeal whatever be allowed from any such conviction, judgment or order, to any Court of General Quarter Sessions, or other Court whatever, when the conviction has been made by a Stipendiary Magistrate, Recorder, Judge of the Sessions of the Peace, Sheriff or Police Magistrate.

No by-law void for defect of form

37. No by-law passed under authority and for enforcement of this Act, shall be set aside by any Court, for any defect of procedure or form whatever :

Or for defect in matters precedent to the poll.

2. And no such by-law, adopted by the electors of a municipality under the fourth and fifth sections of this Act, shall be set aside by any Court, for any defect whatever, whether of form or substance, affecting the requisition therefor, the authenticity or number of the signatures thereto, the qualification of the signers thereof, or any matter, thing or procedure antecedent to the first publication of the notice given for the poll taken thereon unless the same be unauthorized by this Act.

Obligation of municipal officers to perform duties assigned to them by this Act.

38. Every duty devolving upon any Municipal Officer under any of the foregoing sections of this Act, whether in Lower or in Upper Canada, shall be performed by such Officer, with the same powers and under the same penalties and liabilities, in all respects whatever, as though the same devolved upon him under the express enactments of the Lower Canada Consolidated Municipal Act, or of the Act chaptered fifty-four of the Consolidated Statutes for Upper Canada, as the case may be :

Provisions of Municipal Acts for preservation of order at elections to apply to those under this Act

2. All the provisions of the said Acts respectively, for the preservation of peace and good order at Municipal Elections, the prevention and punishment of offences at or with respect to such Elections, the expenses thereof, the power to appoint and swear special constables, and to administer oaths or affirmations to voters, the remedy in case of interruption of the proceedings, and generally all the provisions

of the said Acts respectively relating to Municipal Elections and the polls thereat, and all matters incident thereto, shall apply to polls taken under this Act and the proceedings thereat, the officers and persons presiding at or employed in or about the same, and all matters incident thereto, as if such polls were held with respect to elections under the said Acts,—except only in so far as such provisions may be inconsistent with those of this Act

GENERAL PROVISIONS, IRRESPECTIVE OF LOCAL PROHIBITION.

39. In prosecutions for the sale or barter, in any locality wherein no by-law passed under authority and for enforcement of this Act is in force, of intoxicating liquor of any kind, without the license therefor by law required, or contrary to the true intent and meaning of the law in that behalf, it shall not be necessary that any witness should depose directly to the precise description of the liquor sold or bartered or the precise consideration therefor, or to the fact of the sale or barter having taken place with his participation or to his own personal and certain knowledge, but the Justice or Justices trying the same, so soon as it may appear to him or them that the circumstances in evidence sufficiently establish the infraction of law complained of, shall put the defendant on his defence, and in default of his rebuttal of such evidence, shall convict him accordingly :

In prosecutions for sale without license certain presumptions sufficient to put defendant on his defence, and convict him in default of rebuttal.

2. In every such prosecution, such Justice or Justices may summon any person represented to him or them as a material witness in relation thereto ; and if such person refuses or neglects to attend pursuant to such summons, the Justice or Justices may issue his or their warrant for the arrest of such person ; and he shall thereupon be brought before the Justice or Justices, and if he refuses to be sworn or to affirm, or to answer any question touching the case, he may be committed to the common gaol, there to remain until he consents to be sworn or to affirm, and to answer.

Witnesses summoned and not appearing may be brought up by warrant.

40. Whenever in any inn, tavern, or other house or place of public entertainment, or wherein refreshments are sold, or in any place wherein intoxicating liquor of any kind is sold, whether legally or illegally, any person has drunk to excess of intoxicating liquor of any kind, therein furnished to him, and while in a state of intoxication from such drinking has come to his death by suicide, or drowning, or perishing from cold, or other accident caused by such intoxication, the keeper of such inn, tavern, or other house or place of public entertainment, or wherein refreshments are sold, or of such place wherein intoxicating liquor is sold, and also any other person or persons who for him or in his employ delivered to such person the liquor whereby such intoxication was caused, shall be jointly and severally (*solidairement*) liable to an action as for personal wrong, if

Liability of innkeepers or persons in their employ, &c., who give liquor to persons who become intoxicated and commit suicide or perish from cold, &c.

Action
against them.

brought within three months thereafter, but not otherwise, by the legal representatives of the deceased person; and such legal representatives may bring either a joint and several action against them or a separate action against either or any of them, and by such action or actions may recover such sum not less than one hundred nor more than one thousand dollars, in the aggregate of any such actions as may therein be assessed by the Court or Jury as damages:

Sec. 30 of cap.
6, Con. Stat.
L.C. repealed.

2. The thirtieth section of the Act chaptered six of the Consolidated Statutes for Lower Canada, is hereby repealed.

Persons who
furnish the
liquor liable
for assault
committed by
a person
thereby in-
toxicated.

41. If a person in a state of intoxication assaults any person, or injures any property, whoever furnished him with the liquor which occasioned his intoxication,—if such furnishing was in violation of this Act, or otherwise in violation of law,—shall be jointly and severally (*solidairement*) liable to the same action by the party injured as the person intoxicated may be liable to; and such party injured, or his legal representatives, may bring either a joint and several action against the person intoxicated and the person or persons who furnished such liquor, or a separate action against either or any of them.

Husband,
wife, &c., may
notify sellers
of liquor not
to furnish it
to any person
addicted to
drinking.

42. The husband, wife, parent, brother, sister, tutor, guardian, or employer, of any person who has the habit of drinking intoxicating liquor to excess,—or the parent, brother, or sister, of the husband or wife of such person,—or the tutor or guardian of any child or children of such person,—may give notice in writing, signed by him or her, to any person licensed to sell, or who sells or is reputed to sell, intoxicating liquor of any kind, not to deliver intoxicating liquor to the person having such habit; and if the person so notified do at any time within twelve months after such notice, either himself, or by his clerk, servant, or agent, otherwise than in terms of a special requisition for medicinal purposes, signed by a licensed medical practitioner, deliver, or in or from any building, booth, or place occupied by him, and wherein or wherefrom any such liquor is sold, suffer to be delivered, any such liquor to the person having such habit, the person giving the notice may in an action as for personal wrong, (if brought within six months thereafter, but not otherwise,) recover of the person notified such sum not less than twenty nor more than five hundred dollars, as may be assessed by the Court or Jury as damages; and any married woman may bring such action in her own name, without authorization by her husband; and all damages recovered by her shall in that case go to her separate use; and in case of the death of either party, the action and right of action given by this section shall survive to or against his legal representatives.

Liability of
persons so
notified.

Married
women may
bring action
for damages.

Money paid
for liquor sold
contrary to

43. Any payment or compensation for liquor furnished in contravention of this Act, or otherwise in violation of law

whether made in money or securities for money, or in labor or property of any kind, shall be held to have been received without any consideration, and against law, equity, and good conscience,—and the amount or value thereof may be recovered from the receiver by the party who made the same; and all sales, transfers, conveyances, liens and securities of every kind in whole or part made, granted, or given, for or on account of liquor so furnished in contravention of this Act, or otherwise in violation of law, shall be wholly null and void, save only as regards subsequent purchasers or assignees for value, without notice; and no action of any kind shall be maintained, either in whole or in part, for or on account of any liquor so furnished in contravention of this Act, or otherwise in violation of law.

this Act may not be recovered.

Securities, &c., for payment to be void.

44. In all places where by law intoxicating liquors or any particular description or descriptions of such liquors, are allowed to be sold by retail, no sale or other disposal of such liquors shall take place therein, or on the premises thereof, or out of or from the same, to any person whomsoever, from the hour of nine on Saturday evening, till the hour of six on the Monday morning thereafter,—except in cases where a special requisition for medicinal purposes, signed by a licensed medical practitioner, or by a Justice of the Peace, is produced by the vendee or his agent; nor shall any such liquors be permitted to be drunk in any such place, except by travellers or by persons *bonâ fide* resident, lodging or boarding thereat during the time prohibited by this section for the sale of the same:

No liquors to be sold at certain hours on Sunday, &c.

Exception as to travellers or medicinal purposes.

2. For every offence under this section, a penalty of not less than ten nor more than fifty dollars, with costs, shall in case of conviction, be recoverable from, and leviable against the goods and chattels of the person or persons who are the proprietors in occupancy, or tenants or agents in occupancy, of such place or places, and who are found by himself, or herself, or themselves, or his, her or their servants or agents, to have committed or aided in committing such offence:

Penalty for offences against this section.

3. The two hundred and fifty-fourth, two hundred and fifty-fifth, two hundred and fifty-sixth, two hundred and fifty-seventh and two hundred and fifty-eighth sections of the Act chaptered fifty-four of the Consolidated Statutes for Upper Canada, are hereby repealed.

Sections of cap. 54, Con. Stat. U. C., repealed.

45. Any police officer or constable being thereto authorized in writing, as hereinafter is provided, may at any time enter into any inn, tavern, or other house or place of public entertainment, or wherein refreshments or intoxicating liquors are sold or reputed to be sold, whether legally or illegally: and any person being therein or having charge thereof, who refuses, or after due summons fails, to admit such police officer or constable into the same, or offers any

Police officers, &c., duly authorized, may enter at any time into any tavern, &c.

obstruction to his admission thereto, shall be liable to a penalty of not less than ten nor more than fifty dollars for every such offence :

Who may give such authority.

2. Any two or more Justices of the Peace may grant such authorization to avail within any city, town, township, parish, or incorporated village, therein designated and being within the jurisdiction of such Justices, for any term of time therein specified, not exceeding three months :

How it may be cancelled

3. The Justices of the Peace who granted such authorization, or any one or more of them, may at any time cancel the same, by a written order to that effect under their or his hand, delivered to such police officer or constable; and any police officer or constable acting or assuming to act under any authorization after the same has been so cancelled, shall be guilty of a misdemeanor.

Penalty for acting under it afterwards.

Prosecutions under the two next preceding sections.

46. Any person may be the informant or complainant in prosecuting under either of the last preceding two sections of this Act; all proceedings shall be begun within thirty days from the date of the offence; all informations, complaints, or other necessary proceedings may be brought and heard before any one or more Justices of the Peace for the district, or county, or union of counties, wherein the offence or offences were committed or done; the mode of procedure in, and the forms appended to, the Consolidated Statute of Canada respecting the duties of Justices of the Peace out of Sessions, in relation to summary convictions and orders, may be followed as regards all such cases and proceedings; and all penalties which may be recovered therein shall belong to the corporation of the city, town, township, parish, or incorporated village wherein the offence was committed.

Forms in such cases.

Application of penalties.

PROVISIONS IRRESPECTIVE OF LOCAL PROHIBITION, BUT AFFECTING ONLY LOWER CANADA.

Provision of cap 6, Con. Stat. L. C. repealed.

47. The second sub-section of the twenty-second section of the Act chaptered six of the Consolidated Statutes for Lower Canada, is hereby repealed.

Terms of imprisonment defined.

48. It is hereby declared and enacted, that the several terms of imprisonment set forth in the thirty-eighth, thirty-ninth, and fortieth sections of the said last mentioned Act, are to be reckoned from the day of the arrival of the party as a prisoner at the gaol of the district.

Section 50 amended as to appeals under it.

49. The fiftieth section of the said last mentioned Act is hereby so amended, as to permit the appeal therein provided for, to be made either to the Court of General Quarter Sessions of the Peace as therein ordained,—or to the Circuit Court sitting in the county, or at the *chef-lieu* of the district,—as the Judge allowing such appeal may in his discretion

see fit to order; and thereupon the petition and record shall be returned, filed and otherwise dealt with accordingly, in the Court so by him designated.

INTERPRETATION, ETC.

50. The words "intoxicating liquor" or "intoxicating liquors" whenever they occur in this Act, shall be understood to mean and comprehend all spirituous and malt liquors, all wines, and all combinations of liquors or drinks which are intoxicating. "Intoxicating liquors."

51. The words "city," "town," and "incorporated village," wherever they occur in this Act, shall be understood to mean and comprehend every city, town and village respectively, which by law is a municipal corporation, whether so constituted by any special Act or otherwise, and the words "township" and "parish," wherever they occur in this Act, shall be understood to mean and comprehend not only every township or parish but also every part of a township or parish, which by law is a municipal corporation. "City,"
"Town," &c.
"Township."
"Parish."

52. This Act may be cited as "*The Temperance Act of 1864.*" Short title.

53. The Provincial Secretary shall cause a reasonable supply of copies of this Act to be furnished, at the public charge, with all convenient despatch, to the Council of every municipality in this Province. Distribution of Act.

(A. 1.)

FORM OF REQUISITION THAT BY-LAW BE SUBMITTED, FOR APPROVAL, TO ELECTORS.

The undersigned, qualified Municipal Electors of (*designate the municipality.*) hereby require that any by-law which the Municipal Council thereof may pass under authority and for enforcement of the Temperance Act of 1864, at any time within one year from the date hereof, be submitted for approval to the Municipal Electors of the said municipality.

Witness our hands, this day of in the year of Our Lord, one thousand eight hundred and .

(A. 2.)

FORM OF REQUISITION FOR A POLL ON BY-LAW PROPOSED FOR ADOPTION TO ELECTORS.

The undersigned, qualified Municipal Electors of (*designate the municipality.*) hereby require that a poll be taken in terms of the Temperance Act of 1864, to determine whether

or not the qualified Municipal Electors of the said municipality will adopt, under authority and for enforcement of the said Act, the by-law following, which we hereby propose for their adoption, to wit :—

The sale of intoxicating liquors and the issuing of licenses therefor, is by the present by-law prohibited within the (*designate the municipality*) under authority and for enforcement of the Temperance Act of 1864.

Witness our hands, this day of in the year of Our Lord, one thousand eight hundred and .

(B. 1.)

FORM OF CERTIFICATE OF APPROVAL OF BY-LAW BY ELECTORS.

The foregoing by-law of the Municipal Council of (*designate the municipality.*) having been submitted for approval, by order of the said Municipal Council, to the Municipal Electors of the said (*designate the municipality,*) has been by them duly approved, in terms of the Temperance Act of 1864.

Witness my hand, this day of in the year of Our Lord, one thousand eight hundred and .

(B. 2.)

FORM OF CERTIFICATE OF ADOPTION OF BY-LAW BY ELECTORS.

The by-law proposed by the foregoing requisition, for adoption, to the Municipal Electors of the said (*designate the municipality*) has been by them duly adopted, in terms of the Temperance Act of 1864.

Witness my hand, this day of in the year of Our Lord, one thousand eight hundred and .

(C.)

FORM OF COMPLAINT.

PROVINCE OF CANADA,)
 District (or as case may be) of) A. B., (*designate duly and sufficiently the corporation or other prosecutor, as the case may require,*) in behalf of Our Sovereign Lady the Queen, prosecutes C. D., of (*designate duly and sufficiently the defendant,*) and complains : That the said C. D., at (*designate duly the municipality,*) on (*designate the time or times,*) and at sundry times before or since, did (*here state succinctly the offence charged,*) contrary to the Temperance Act of 1864, then and there being fully in

force ; whereby and by force of the said Act, the said C. D. hath become liable to pay the sum of .

Wherefore the said prosecutor prays that the said C. D. be condemned to pay the said sum of , with costs.

(D.)

FORM OF SUMMONS.

PROVINCE OF CANADA, } To C. D., of (*designate duly*
District (*or as case may be*) } *and sufficiently the defendant.*
of . }

You are hereby commanded to appear before (us or me, *as the case may be*) the undersigned Justices of the Peace for the said District (*or as the case may be,*) at (*name the place,*) on the day of at the hour of in the noon, (*if the summons be issued by two Justices and not by a Stipendiary Magistrate, Recorder, Judge of the Sessions of the Peace, or Police Magistrate, add here the words, or before such other Justices of the Peace for the said District, or as the case may be, as may then be there,*) to answer to the matters charged against you by (*designate the prosecutor,*) who prosecutes you in Her Majesty's behalf, as the same are set forth in the complaint hereto annexed,—otherwise judgment will be given against you by default.

Given under our (*or my*) hand and seal, this day of in the year of Our Lord one thousand eight hundred and , in the district (*or as case may be*) aforesaid.

(*Signatures and Seals.*)

CERTIFICATE OF SERVICE.

I, the undersigned, E. F., of (*designate duly the bailiff or other party certifying,*) do hereby certify, upon my oath of office, that on the day of , I did serve the within summons, and the complaint thereto annexed, on the within named defendant, at the hour of of the clock in the noon, by leaving a true and certified copy of the said summons and of the said complaint at the domicile of the said defendant, in the , speaking to (*or, if the service was personal, by speaking to him and leaving with him a true and certified copy of the said summons and of the said complaint at .*)

(*To be dated and signed in the ordinary manner.*)

(E.)

FORM OF CONVICTION.

PROVINCE OF CANADA, } Be it remembered that on the
 District (or as case may } day of _____, in the year of Our
 be) of _____ } Lord one thousand eight hundred
 and _____, at (*designate the place where the conviction is had*) in
 the said district (or as case may be), C. D., of (*designate the
 defendant.*) is convicted before the undersigned, G. H., Es-
 quire, of _____ (*designating the official function of the party
 convicting, as the case may be*) for that he the said C. D. did
 (*state succinctly the offence*) and I (or we) adjudge the said C.
 D. for his said offence, to forfeit and pay to (*designate the
 prosecutor*) the sum of _____, and also the further sum
 of _____ for costs in this behalf.

Given under my (or our) hand and seal, the day and year
 first above mentioned.

(Signature and Seal.)

(F.)

FORM OF WARRANT OF DISTRESS.

PROVINCE OF CANADA, } G. A., Esquire, of _____ (*designa-*
 District (or as case may } *ting the official function of the party*
 be) of _____ } *issuing the warrant.*)

To any bailiff, constable or other officer of the Peace in
 and for the said district (or as case may be):

Whereas C. D., of _____ (*designate the defendant.*) hath
 been convicted before _____ of having (*state the offence*),
 and for such offence adjudged to pay A. B. (*designate the
 prosecutor*) the sum of _____, and also the further sum of
 _____ for costs in that behalf:*

These are therefore to command you, and each of you, to
 distrain the goods and chattels of the said C. D., wheresoever
 they may be found within the said district (or as case may be),
 and thereon to levy the said penalty and costs, making
 together the sum of _____; and if, within the space of
 four days next after such distress made, the said last men-
 tioned sum of _____, together with the reasonable
 charges of taking and keeping the said distress, are not paid,
 that then you do sell the said goods and chattels so by you
 distrained as aforesaid, and out of the money arising from
 such sale, that you do pay the said sum of _____ unto the
 said A. B., refunding to the said C. D. the overplus, the
 reasonable charges of taking, keeping and selling the said
 distress being first deducted; and you are to certify to me
 (or us) with the return of this warrant what you shall have
 done in the execution thereof. Herein fail not.

Given under my (or our) hand and seal, this day of
 in the year of Our Lord one thousand eight hundred
 and , at in the district (or as case may be),
 aforesaid.

(Signature and Seal.)

(G. 1.)

FORM OF WARRANT OF COMMITMENT, UNDER SECTION THIRTY
 OR THIRTY-ONE.

PROVINCE OF CANADA,) To all or any of the bailiffs,
 District (or as case may) constables and other officers of
 be) of .) the peace, in the District (or as
 case may be) of and to the keeper of the gaol of the
 same District (or as case may be.)

Whereas, &c. (as in the foregoing Form F, to the mark*);
 And whereas (state circumstances under which, in terms of
 section thirty or thirty-one, as case may be, the warrant is
 issued); These are therefore to command you the said bailiffs,
 constables or officers of the peace, or any one of you, to
 take the said C.D., and him safely convey to the gaol of the
 said district (or as case may be), and there deliver him to the
 said keeper thereof, together with this warrant; and I
 (or we) do hereby command you the said keeper of the said
 gaol to receive the said C. D. into your custody in the said
 gaol, and to imprison him for the space of

from the day of his arrival as a prisoner thereat,
 unless the said last mentioned sum of , and
 all the costs of the commitment and conveying of the said
 C. D. to the said gaol, amounting to the further sum of ,
 are sooner paid unto you the said keeper; and for so doing,
 this shall be your sufficient warrant.

Given, &c. (as in foregoing Form F.)

(G. 2.)

FORM OF WARRANT OF COMMITMENT, UNDER SECTION
 THIRTY-TWO.

(As in foregoing Form, G. 1, to same mark*); And whereas
 afterwards, on the day of , in the year
 , I (or as case may be) issued a warrant of distress
 for the levying of the said amount, together with the reason-
 able charges of the said distress; And whereas (state circum-
 stances under which, in terms of section thirty-two the warrant
 is issued); These are therefore to command you the said
 bailiffs, constables or officers of the peace, or any one of you

to take the said C.D., and him safely convey to the gaol of the said district (*or as case may be*), and there deliver him to the said keeper thereof, together with this warrant; and I (*or we*) do hereby command you the said keeper of the said gaol to receive the said C.D. into your custody in the said gaol, and there to imprison him for the space of _____, from the day of his arrival as a prisoner thereat, unless the said last mentioned sum of _____ and all the costs of the said distress, and of the commitment and conveying of the said C.D. to the said gaol, amounting to the further sum of _____, are sooner paid unto you the said keeper, and for so doing this shall be your sufficient warrant.

Given, &c. (*as in foregoing Form G. 1.*)

(H.)

FORM OF AUTHORIZATION UNDER SECTION FORTY-FIVE.

PROVINCE OF CANADA. } To J. S., of _____,
 District (*or as case may be*) of _____ } Police Officer (*or Constable as, case may be.*)

You are hereby authorized, in terms of the Temperance Act of 1864, by us (*or as case may be*) of Her Majesty's Justices of the Peace, and within whose jurisdiction as such the city (*or town or township, or parish, or incorporated village (as case may be) of (designate municipality within which authorization is to avail)*) is situate, at any time or times not exceeding (*designate the term of time for which the authorization is granted not being more than three months*) from this day, within the said city (*or as case may be*) to enter into any inn, tavern, or other house or place of public entertainment, or wherein refreshments or intoxicating liquors are sold or reputed to be sold whether legally or illegally.

Given under our hands and seals this _____ day of _____ in the year of our Lord one thousand eight hundred and _____.

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27-28 VIC., CHAP. 68.

An Act to change the tenure of the Indian lands in the Township of Dundee, in the County of Huntingdon.

[Assented to 30th June, 1864]

WHEREAS the Township of Dundee in Lower Canada, Preamble. containing an area of eleven thousand one hundred and eighty-one acres of land, was set apart for the use and benefit of the Indians of the Tribe Iroquois of Saint Regis, at an early period of the Government of Canada, as an Indian Reservation; and whereas the said Indians have, through their representatives appointed by Her Majesty's Government, leased all their rights in such lands for fixed ground rents, and have given up possession of the same, after having so leased and conveyed them, and the parties to whom such lands were so conveyed have, at great expense, cleared the same, erected buildings thereon, and otherwise improved them, thereby greatly enhancing their value; and whereas doubts have arisen respecting the legality of the said leases or conveyances, and such doubts tend to obstruct the further improvement of such lands, and it is desirable, and for the interest of the said Indians as well as of the individuals holding such lands, and for the community generally, that all such doubts should be removed and the said Indians duly compensated, and that the purchasers and lessees should have the right of redemption of such lands: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. All leases, *baux emphytéotiques*, or *baux à longues années* granted for a longer period than thirty years by the St. Regis Indians, or their representatives, of the said lands of the Township of Dundee, which shall have been passed before the first day of March, one thousand eight hundred and sixty-four, and which at the time the same were executed, or prior to the date above mentioned, were approved by a recognized agent of the Indian Department, shall be considered to have been legally made; Provided always, that an annual ground rent of not less than at the rate of five dollars for each lot of one hundred *arpents*, French measure, shall have been stipulated in favor of the said Indians.

Leases made before a certain day confirmed.

Proviso: as to reserved rent.

Purchaser or lessee may redeem the rent and on what terms.

Proviso.

Letters patent may issue for land so redeemed: and when.

Proviso: mines to be reserved.

Accounts to be kept, &c.

2. Any purchaser or lessee, or the heirs, representatives, assignee or assignees of any purchaser or lessee of any lot or part of a lot of the Indian lands in the Township of Dundee, now in the possession of the same, may redeem the rent annually accruing upon such land or lot, or part of lot of land, under the leases mentioned in the preceding section of this Act, by paying to the Indian Department, in addition to any arrears that may be due, the capital represented by such rent at the rate of five per cent, which payment as to capital shall be made to the Commissioner of Crown Lands, as Superintendent-General of Indian Affairs, who is hereby authorized to receive the same and grant a receipt therefor; provided such redemption shall be made within five years after the passing of this Act; and upon such redemption by the payment aforesaid, and upon satisfactory evidence of survey being furnished to the Crown Lands Department, letters patent may be issued granting such lot or part of a lot of land in fee simple, and clear of all charges, in favor of the said Indians, to the person entitled to redeem and having redeemed the same, or his heirs, assigns or legal representatives; and such letters patent shall issue forthwith after such redemption, if the said lands shall have been then surrendered to Her Majesty, for the purposes of this Act, by a deed of surrender, executed by a majority of the Chiefs of the said Indians of the Tribe Iroquois of St. Regis, with the approval and to the satisfaction of the Governor General in Council; and if such surrender be not so made at the time of the said redemption, then the said letters patent shall issue so soon thereafter as the said surrender shall have been executed; Provided always, that in all such letters patent all mines of lead, tin, coal and copper and all mill sites shall be reserved by the Crown in trust for the said Indians of St. Regis.

3. The said Commissioner of Crown Lands, as Superintendent-General of Indian Affairs, shall keep an account of all sums deposited in his hands, and shall pay over the interest thereon annually or semi-annually to the said Indians, in any way in which he may deem most beneficial to them.

Public Act.

4. This Act shall be deemed a Public Act.

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27-28 VIC., CHAP. 69.

An Act to enable the Huron Indians of La Jeune Lorette, to regulate the cutting of wood in their Reserve.

[Assented to 30th June, 1864.]

WHEREAS continual depredations are committed by Indians and others on the Reserve belonging to the Tribe of Huron Indians at Lorette, which is situated in the parish of St. Ambroise de la Jeune Lorette, and is commonly known as the *Quarante Arpents*, and whereas, with the view of securing to the families of the said Tribe a supply of fire-wood and timber for their ordinary requirements, it is necessary that the cutting of the standing timber thereon should be regulated by legislative enactment: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. Any person who shall cut any wood on the said Reserve without the permission in writing of the Council of Chiefs of the said tribe, as hereinafter prescribed, shall be deemed to have cut the same wrongfully and shall be liable to a fine not exceeding eight dollars, and further be condemned to forfeit the value of the timber so cut; and the said fine and forfeiture shall belong one half to the informer and the other to the Indian Fund, such fund to be specially applied to the maintenance of the said tribe.

What shall be deemed a wrongful cutting of wood.

Penalty, and how applied.

2. Any person who shall purchase, from the said Indians or others, any wood cut in the said Reserve, shall thereby incur the penalty imposed by the foregoing section.

Penalty on purchaser.

3. Any person guilty of any of the offences above mentioned may be prosecuted before a Justice of the Peace on the complaint of any person whomsoever, and the said Justice may cause his judgment to be enforced by distress and sale of the movable effects to the offender, and in default of movable property by imprisonment of the offender for a period not exceeding one month.

Recovery of penalties.

4. Any person who shall be prosecuted under this Act shall be bound to prove that he was entitled to cut wood in the said Reserve, if he pleads that he was so entitled.

Onus of proof.

Council of
chiefs to
make by-laws
as to such
wood.

5. The more effectually to secure the carrying out of this Act, it is enacted that the Council of Chiefs of the Huron Tribe of Lorette, shall be empowered to make by-laws, to be submitted for the approval of the Head of the Indian Department:—

1. For fixing the conditions upon which the wood shall be cut and distributed ;

2. For granting to the said Indians permission, in writing, to cut wood in the said Reserve, indicating the quality and quantity of the wood required, and the place at which it is to be cut ;

3. For strictly and effectually carrying out the provisions of this Act.

Public Act.

6. This Act shall be deemed a Public Act.

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28 VIC., CHAP. 6.

An Act respecting the Weighing, Measuring and Gauging of certain Articles of General Consumption.

[Assented to 18th March, 1865.]

WHEREAS it is desirable to provide for the weighing, measuring and gauging of certain articles of general consumption in this Province: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Preamble.

BOARD OF EXAMINERS..

1. At any time after the passing of this Act and during the year one thousand eight hundred and sixty-five, and thereafter on such day annually as the Boards of Trade hereinafter mentioned may respectively annually fix for that purpose, the Council of the Board of Trade for each of the cities of Quebec, Montreal, Toronto, Kingston, Hamilton and London, and of any other city in and for which there may then be a Board of Trade, shall appoint five skilful persons, resident in or in the immediate vicinity of the city for which they are appointed, to constitute the Board of Examiners of applicants for the office of Weigher, Measurer and Gauger, or Assistant Weigher, Measurer and Gauger, for the period of one year, to commence from such date as the said Boards of Trade respectively shall determine; and each Examiner shall, before acting as such, take the following oath of office before the President or Vice-President of the Board of Trade for the place for which he is appointed:—

Appointment of examiners by boards of trade.

To take an oath of office.

“I, A. B., do swear that I will well and truly in all things act as Examiner of applicants for the office of Weigher, Measurer and Gauger, or Assistant Weigher, Measurer and Gauger and as arbitrator under the Act respecting the weighing, measuring and gauging of certain articles of general consumption, without partiality, favor or affection, and to the best of my knowledge and understanding. So help me God” Which oath shall remain in the office and custody of the Secretary of the Board of Trade.

The oath.

Where to be kept.

2. Any three of such examiners shall form a quorum of the Board, and may do any act which the Board could legally do.

Quorum.

Examiners
not remov-
able.

Vacancies,
how filled.

Oath of office.

Examination
of candidates.

3. The said Examiners shall not be removable by the Council of the Board of Trade by which they are appointed ; but in case of vacancy by the death or removal of any Examiner beyond the immediate vicinity of the city for which he is appointed, the Council of the Board of Trade may appoint another in his stead, to hold office during the remainder of the period for which such deceased or removed examiner was appointed, and the person so appointed shall take the oath of office before the President or Vice-President of the Board of Trade, and such oath shall remain in the office and custody of the Secretary as aforesaid.

- **4.** The Board of Examiners, or a quorum thereof, shall examine all applicants for the office of Weigher, Measurer and Gauger, or Assistant Weigher, Measurer and Gauger, and shall recommend to the Council of the Board of Trade, as eligible for appointment, those only whom they consider perfectly qualified for the office of Weigher, Measurer and Gauger, or Assistant Weigher, Measurer and Gauger, as the case may be, distinguishing for which of the said offices they consider the applicant as qualified.

APPOINTMENT OF WEAHERS, MEASURERS AND GAUGERS.

Appointment
of weigher,
measurer and
gauger.

5. The Council of the Board of Trade for each such city as aforesaid shall appoint a Weigher, Measurer and Gauger, for such city from among those certified to them by the Board of Examiners as qualified for the office.

Weigher,
measurer and
gauger to be
sworn.

6. Every Weigher, Measurer and Gauger, before he acts as such, shall take and subscribe an oath before the President or Vice-President of the Board of Trade, in the words following :

The oath.

“ I, A. B., do solemnly swear that I will faithfully, truly and impartially, to the best of my judgment, skill and understanding, execute and perform the office and duty of Weigher, Measurer and Gauger ; that I will not, directly or indirectly, by myself or any other person or persons whomsoever, trade or deal in any articles subject to weight, or measurement or gauging under the Act respecting the weighing, measuring and gauging of certain articles, according to the rules of the Board of Trade for the time being, or be connected in any such trade during the time I shall continue as such weigher, measurer and gauger. So help me, God.” And the said oath shall remain in the office and custody of the Secretary of the Board of Trade.

Where to be
kept.

Weigher,
measurer and
gauger to give
security.

7. Before any Weigher, Measurer and Gauger shall act as such, he shall furnish two good and sufficient sureties, each of whom shall be bound jointly and severally with such Weigher, Measurer and Gauger for the due performance of

the duties of his office, in the sum of one thousand dollars ; and such sureties shall be subject to approval by the President of the Board of Trade, to whom the penalty of the bond shall be made payable ; and the bond shall remain in the office of the Board of Trade and shall avail to all persons aggrieved by any breach of the conditions thereof.

Where the bond shall be kept, &c.

8. Every Weigher, Measurer and Gauger appointed under this Act shall appoint one or as many more assistants as the Council of the Board of Trade may from time to time direct, for the acts of which assistants he shall be responsible ; and all acts done by an Assistant Weigher, Measurer and Gauger shall be held to be the acts of the Weigher, Measurer and Gauger who appointed him ; but each such assistant must, before his appointment, have been examined and approved by the Board of Examiners, and shall take and subscribe the same form of oath, *mutatis mutandis*, as the Weigher, Measurer and Gauger appointed under this Act, before the President or Vice-President of the Board of Trade, and such oath shall remain in the office and custody of the Secretary of the Board of Trade.

Appointment of assistants.

They must be approved and sworn.

9. The Assistant Weighers, Measurers and Gaugers shall be paid by the Weigher, Measurer and Gauger, and shall hold their office at his pleasure ; and no such Weigher, Measurer and Gauger shall allow any person to act for him about the duties of his office, except his sworn assistant or assistants, appointed as aforesaid.

How paid, removed, &c.

10. Every oath of office taken and bond given under this Act shall be kept open to public inspection, and every person shall be entitled to have communication or to have a copy of such any oath or bond, upon payment of twenty-five cents for such communication, and ten cents for any such copy.

Oaths and bonds to be open to the public.

11. The Council of the Board of Trade may remove any Weigher, Measurer or Gauger and appoint another, if it be satisfactorily shown to such Council that the duties of the office are not properly performed.

Removal of weigher, measurer and gauger.

12. Every Weigher, Measurer and Gauger, or assistant to such, who, directly or indirectly, trades or deals in any of the articles mentioned in the oath in the sixth section of this Act, shall be forthwith removed from office.

Weighers, measurers and gaugers not to deal in certain articles.

Penalty.

DUTIES OF WEIGHERS, MEASURERS AND GAUGERS.

13. The duties of every Weigher, Measurer and Gauger appointed under this Act shall be to determine and certify the weight, measure or contents of all cargoes, packages, bales, chests, parcels, kegs, barrels, boxes, pieces or articles, the contents of which may be subjected to weighing, mea-

Their duties, &c.

suring or gauging, under this Act, by virtue of the rules and regulations of the Board of Trade for the time being, and which may be submitted to him for such purpose, in conformity to the standards hereinafter prescribed.

Weigher,
measurer and
gauger's
office.

14. The Weigher, Measurer and Gauger shall provide himself with an office in some place in the city for which he is appointed, convenient for business, and shall keep a record of all articles weighed, measured or gauged by him, which shall be open to the public.

Fees.

15. For every such weighing, measuring and gauging as aforesaid the persons requiring the same shall pay to the Weigher, Measurer and Gauger, the fees payable for the service performed, under the tariff made by the Board of Examiners, as hereinafter provided, and then in force.

Certificate to
be furnished.

16. As soon as any of the aforesaid articles have been so weighed, measured or gauged as aforesaid, a certificate thereof shall be furnished by the Weigher, Measurer and Gauger, or his assistant, without fee or reward, specifying the weight, measure or contents (as the case may be) of the cargo, package, bale, chest, parcel, keg, box, barrel, piece or article, so weighed, measured or gauged, and the tare, if any, and the charges for such weighing, measuring or gauging, and also specifying the marks and numbers, if any, on such package, bale, chest, parcel or barrel.

Effect of cer-
tificate.

17. Every such certificate as aforesaid shall be received in all courts of justice in this Province as *prima facie* evidence of the contents, measure, or weight of the articles to which the same refers.

FEEs, DISPUTES, ETC.

Tariff of fees
to be made.

18. The Board of Examiners, or a quorum thereof, shall make a tariff of fees for the several services which may be required of the Weigher, Measurer and Gauger under this Act, and may from time to time, as circumstances may require, remodel and alter such tariff; and shall and may make and promulgate all necessary rules and regulations to be observed in carrying out the provisions of this Act, and shall from time to time regulate and ordain the articles to be subject to this Act, being articles of general use and consumption, and may from time to time alter, annul and amend such rules and regulations; but such tariff of fees, rules and regulations shall nevertheless require the approval of the Board of Trade before they take effect; and the said Board of Examiners shall be a Board of Arbitrators to decide all disputes arising between a Weigher, Measurer and Gauger and any party employing him, regarding the weight, measure or contents of any articles submitted to him for such purpose.

Rules and
regulations.

Examiners to
be arbitrators
in disputes.

19. If any dispute arises between a Weigher, Measurer and Gauger, or his assistant, and the owner and possessor of any articles submitted for weight, measurement or gauging, as to their weight, measurement, or contents, then, upon application by either of the parties to the Secretary of the Board of Trade, the said Secretary shall forthwith summon a meeting of the Board of Examiners, who shall immediately examine such article and report their decision as to its weight, measurement, or contents, and such decision made in writing shall be final and conclusive; the parties against whom the arbitrators decide shall pay all charges incurred about the arbitration, and the arbitrators shall fix the amount of such charges, and the Weigher, Measurer and Gauger shall, in his certificate conform to the decision of the Board of Arbitration.

Proceedings
in case of
disputes.

Costs.

20. Nothing in this Act shall oblige any person to cause any articles mentioned in this Act, or subject thereto, to be weighed, measured or gauged; but if so weighed, measured or gauged, they shall be subject to the provisions of this Act.

Act not com-
pulsory.

21. The standards of weights and measures to be used by any Weigher, Measurer and Gauger, or his assistant appointed under this Act, shall be in conformity with the provisions in that behalf of chapter fifty-three of the Consolidated Statutes of Canada, chapter fifty-eight of the Consolidated Statutes for Upper Canada, and chapter sixty-two of the Consolidated Statutes for Lower Canada.

Standards.

22. In every city, town or village municipality in this Province wherein no Board of Trade may exist, it shall and may be lawful for the Municipal Council thereof, if they so determine, to exercise all the powers and privileges herein given and conferred on the Boards of Trade for the purposes of this Act.

Municipal
councils may
act where no
board of
trade.

23. Any person who shall, under this Act, submit for weight, measurement or gauging any barrel, cask, parcel, bale, package, chest, box, piece, or any other article, so made and constructed as to mislead or deceive in the weight, measurement or gauging, according to the usual practice, or in the tare, if any, of such barrel, cask, parcel, bale, package, chest, box, piece, or article, shall be liable to a penalty of twenty dollars, to be recovered before any court having jurisdiction in civil cases to the amount of such penalty, by any person suing, as well in his own behalf as on behalf of Her Majesty; and one moiety of such penalty shall belong to the Crown, for the uses of the Province, and the other moiety to the party suing for the same, unless the suit be

Penalty for
offering frau-
dulent pack-
ages.

Application
of penalty.

brought, as it may be, on behalf of the Crown only, in which case the whole of the penalty shall belong to Her Majesty, for the uses aforesaid.

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23 VIC., CHAP. 14.

An Act to regulate the business of Stevedores and Liners in the Harbour of Montreal.

[Assented to 18th March, 1865.]

WHEREAS the fifty-second chapter of the Statutes of this Province, passed in the twenty-sixth year of the Reign of Her present Majesty, provides for the appointment of a Port Warden for the Harbour of Montreal: and whereas to render such Act more beneficial, and to provide for the proper stowage, dunnage and lining of vessels which are by the said Act subjected to the inspection of the said Port Warden, it is expedient to regulate the business of Stevedores and Liners exercising their calling in the Port and Harbour of Montreal; Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. The Port Warden of the Harbour of Montreal may, from time to time, give and grant to competent persons desiring to exercise the calling of Stevedore or Liner, within the Port and Harbour of Montreal, licenses or certificates to carry on either such calling within the limits aforesaid: Provided nevertheless, that every person to whom such license or certificate is granted shall be considered by such Port Warden a fit person to be so licensed, and shall, on being so licensed, sign an undertaking to abide by the directions of the Port Warden for the time being in the stowage, discharge, lining or dunnage of vessels within such limits as aforesaid.

Port Warden
may license
stevedores or
liners.

Party licensed
to sign under-
taking to ob-
serve orders of
Port Warden.

2. For every license or certificate so granted as aforesaid, the Port Warden shall be entitled to demand and receive a fee to be fixed by the Board of Examiners under the said recited Act, such fee, however, not exceeding the sum of five dollars.

Fees on
licenses.

3. Every such license or certificate shall continue for the space of one year (unless revoked as hereinafter mentioned); and the said Port Warden shall keep in his office a register of all persons for the time being holding such license or certificate, such register to be open to public inspection gratuitously.

Duration of
license.

Register.

Revocation or suspension of license.

4. The said Port Warden may from time to time revoke and annul, or suspend, any license or certificate previously granted under this Act to any person who, in the exercise of his calling, shall have wilfully disobeyed the orders and directions of the said Port Warden, or who shall be considered by the said Port Warden, in his discretion, from any cause not deserving of such license or certificate.

Appeal to board of examiners.

5. Every person who, by reason of the withholding from him, or the revocation or suspension of his license or certificate, shall consider himself aggrieved, may appeal to the Board of Examiners appointed under the said recited Act, who may confirm, revoke or alter the decision of the said Port Warden; and the decision of such Board shall be final, and no fee or charge shall be payable by the party so appealing.

Decision of board to be final.

Parties whose licenses have been revoked may again be licensed.

6. Nothing in the preceding section shall prevent the said Port Warden from granting a license or certificate to any person whose license or certificate may have been withheld, revoked or suspended, provided the said Port Warden shall, at any time thereafter, think fit to entertain the application therefor.

Act not to interfere with 26 Vic., cap. 52.

7. Nothing in this Act contained shall interfere with or abridge the duties, liabilities and privileges imposed on and accorded to the said Port Warden and the Board of Trade by virtue of the said recited Act, or in any way impair the effect of such Act in any particular.

License not to confer exclusive rights.

8. Nothing in this Act contained shall hinder or prevent any person from exercising the calling of Stevedore or Liner within the limits aforesaid without such license or certificate as aforesaid.

Public Acts.

9. This Act and the Act herein first cited shall be deemed Public Acts.

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29 VIC., CHAP. 38.

An Act to make further provisions for the management of Permanent Building Societies in Upper Canada.

[Assented to 18th September, 1865.]

WHEREAS it is expedient to make further provisions for the management of Permanent Building Societies in Upper Canada: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

Preamble.

1. It shall be lawful for the Directors of any Permanent Building Society in Upper Canada, at any time and from time to time as they may think expedient, by resolution, to close for any specified time, or until further order, the subscription of shares to be held for investment in the Society, and thereafter, until the expiration of such specified time, or until such further order, no new shares shall be subscribed for investment in the Society; Provided always, that such new issue of shares shall be allotted to the then existing shareholders *pro rata*, as nearly as possible without fractions, but in case such new shares be not taken up within thirty days, then the said shares, or the remaining shares shall be sold, and any premium thereon applied to the general benefit of the Society.

Directors may close subscription of shares.

Proviso.

2. It shall be lawful for the members entitled to vote, at any time by resolution to be passed at any special or general meeting, for which meeting, notice of such intended resolution shall have been duly given, according to the seventeenth section of chapter fifty-three of the Consolidated Statutes for Upper Canada, to determine that no new shares shall thereafter be subscribed for investment in any such Society; and thereafter no new shares for investment shall at any time be subscribed therein, and the subscription of such shares shall cease for ever.

Members may determine at a general or special meeting to close subscription of shares.

3. Nothing done under the preceding clauses of this Act shall have the effect of preventing any such society from creating, as it otherwise might, any share or shares to be immediately advanced to the subscriber or subscribers thereof, or of preventing any person from subscribing, as he otherwise might, for any share or shares, in order im-

Shares to be immediately advanced excepted.

diately to obtain the advance thereof from such Society by giving security therefor.

Members may
vote by
proxy.

4. Any member entitled to vote at any meeting of any Permanent Building Society, held under the thirty-seventh section of chapter fifty-three of the Consolidated Statutes for Upper Canada, may be represented and vote at such meeting by his proxy, such proxy being a member of such Society.

Quorum of
members for
altering by-
laws.

5. It shall be lawful at any general meeting, convened under section seventeen of the fifty-third chapter of the Consolidated Statutes for Upper Canada, for two-thirds of the shareholders there present in person, or by proxy, representing not less than one half the amount paid up on investing shares, to alter, repeal or amend any of the rules or by-laws of such Society.

Yearly re-
turns to the
Auditor of
Public
Accounts.

6. It shall be the duty of the Secretary or Treasurer, and the President or Vice-president of every such Society, to make yearly returns, upon oath, to the Auditor of Public Accounts, of the affairs of such Society, in such manner as may be by him prescribed, stating therein the mode by which the assets of such Society are valued.

Sec. 39 of c.
53, Con. Stat.
U.C. amended
as to paying
up shares in
full.

7. The thirty-ninth section of chapter fifty-three, above mentioned, shall be amended by adding the following proviso thereto: "Provided always, that any share or shares may, at any time, be paid up in full and capitalized at once, as permanent stock, and any such share or shares heretofore paid in full, or in part, shall be as valid as if the same had been paid by periodical or other subscription; Provided also, that no such Society hereafter to be established shall borrow money or receive deposits until not less than one hundred thousand dollars of stock shall have been subscribed, and not less than forty thousand dollars shall have been actually paid thereon."

As to borrow-
ing money.

Inconsistent
provisions
repealed.

8. All provisions of all former Acts which may be inconsistent with this Act shall be held and taken to be by this Act amended, so far as may be necessary to render them consistent with this Act.



29 VIC., CHAP. 41.

An Act respecting the Civil Code of Lower Canada.

[Assented to 18th September, 1865.]

WHEREAS the Commissioners appointed under the second Chapter of the Consolidated Statutes for Lower Canada, to codify the laws of that division of the Province in civil matters, have completed that portion of their work mentioned in the said Act as the *Civil Code of Lower Canada*, embodying therein such provisions only as they hold to be now actually in force, and giving the authorities on which they believe them to be so, and have suggested such amendments as they think desirable, stating such amendments separately and distinctly, with the reasons on which they are founded; and have in all respects complied with the requirements of the said Act as regards the said Code and amendments; and whereas the said Code with the amendments suggested by the said Commissioners, has, by command of the Governor, been laid before the Legislature, in order that the said Code, with such amendments as may be adopted by the Legislature, may be made law by enactment; and whereas such of the amendments suggested by the Commissioners, and such other amendments, as are mentioned in the resolutions contained in the Schedule hereunto annexed, have been finally agreed to by both Houses: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Canada, enacts as follows:—

1. The printed roll attested as that of the said *Civil Code of Lower Canada*, under the signature of His Excellency the Governor General, that of the Clerk of the Legislative Council and that of the Clerk of the Legislative Assembly, and deposited in the office of the Clerk of the Legislative Council, shall be held to be the original thereof reported by the Commissioners, as containing the existing law without amendments; but the marginal notes, and the references to existing laws or authorities at the foot of the several articles of the said Code, shall form no part thereof, and shall be held to have been inserted for convenience of reference only, and may be omitted or corrected.

Attested
printed Roll
of Civil Code
of Lower
Canada to be
deemed the
original.

As to mar-
ginal notes,
&c.

2. The Commissioners under the Act mentioned in the preamble of this Act, shall incorporate the amendments

Amendments
to be incor-
porated by

the Commissioners.

mentioned in the resolutions contained in the Schedule to this Act, with the said Civil Code as contained in the roll aforesaid, adapting their form and language (when necessary) to those of the said Code, but without changing their effect, inserting them in their proper places, and striking out of the said Code any part thereof inconsistent with the said amendments.

Acts of present and now last sessions may also be incorporated.

3. The Governor may also select any Acts and parts of Acts passed during the session now last past and the present session, which he may deem it advisable to be incorporated with the said Code, and may cause them to be so incorporated by the said Commissioners, in the manner hereinbefore prescribed with respect to the amendments above mentioned, striking out of the Code or amendments any part thereof inconsistent with the Acts or parts of Acts incorporated therewith.

What changes the Commissioners may make.

4. The Commissioners may alter the numbering of the Titles and Articles of the said Code or their order, if need be, and make the necessary changes in any reference from one part of the Code to another, and may correct any misprint or error, whether of commission or omission, or any contradiction or ambiguity in the original Roll, but without changing its effect.

Reprinting of Code as finally corrected.

5. So soon as the said work of incorporation and correction shall have been completed, the said Commissioners shall cause the Code to be reprinted as amended and corrected, carefully distinguishing in such reprint the substantive amendments and additions made in or to the original Roll, and shall submit the same to the Governor, who may cause a correct printed Roll thereof, attested under his signature and countersigned by the Provincial Secretary, to be deposited in the office of the Clerk of the Legislative Council, which Roll shall be held to be the original thereof; any such marginal notes or references thereon as are mentioned in Section one, being held to form no part thereof, but to be inserted for convenience of reference only.

Deposit of attested copy.

As to marginal notes, &c.

Code to be brought into force by Proclamation.

6. The Governor in Council may after such deposit of the Roll last mentioned, declare by Proclamation the day on, from and after which the said Code as contained in the said Roll shall come into force and have effect as law, by the designation of "The Civil Code of Lower Canada," and upon, from and after such day the said Code shall be in force accordingly.

How to be distributed.

7. The laws relating to the distribution of the printed copies of the Statutes shall not apply to the said Code, which shall be distributed in such numbers and to such persons only as the Governor in Council may direct.

8. This Act and the Proclamation mentioned in section six, shall be printed with the copies of the said Code printed for distribution as aforesaid.

This Act and the proclamation to be printed with the Code.

9. So much of the Act cited in the Preamble as may be inconsistent with this Act is hereby repealed.

Inconsistent enactments repealed.

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OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



ARTICLES OF THE CIVIL CODE

OF

LOWER CANADA.

BROUGHT INTO FORCE ON FIRST AUGUST, ONE THOUSAND EIGHT HUNDRED AND SIXTY-SIX, BY PROCLAMATION DATED TWENTY-SIXTH MAY, ONE THOUSAND EIGHT HUNDRED AND SIXTY-SIX, UNDER THE PROVISIONS OF THE ACT OF THE LATE PROVINCE OF CANADA, TWENTY-NINTH VICTORIA, CHAPTER FORTY-ONE.

PRELIMINARY TITLE

OF THE PROMULGATION, DISTRIBUTION, EFFECT, APPLICATION, INTERPRETATION AND EXECUTION OF THE LAWS IN GENERAL.

12. When a law is doubtful or ambiguous, it is to be interpreted so as to fulfil the intention of the legislature, and to attain the object for which it was passed.

The preamble, which forms part of the Act, assists in explaining it.

13. No one can by private agreement, validly contravene the laws of public order and good morals.

14. Prohibitive laws import nullity, although such nullity be not therein expressed.

15. The word "shall" is to be construed as imperative, and the word "may" as permissive.

16. Penalties, confiscations and fines incurred for contraventions of the laws are recoverable, unless it is otherwise specially provided, by ordinary process of law, in the name of Her Majesty, alone or jointly with another prosecutor, before any court having civil jurisdiction to the amount sought to be recovered, except only the Commissioners' Courts for the summary trial of small causes, which are prohibited from taking cognizance of these cases.

17. The words, terms, expressions and enactments enumerated in the following schedule wherever used in this code or in any act of the provincial legislature, have the meaning and application respectively assigned to them in such schedule, and are interpreted in the manner therein specified, unless there is some special enactment to the contrary.

SCHEDULE.

1. Each of the expressions "Her Majesty," "the King," "the Sovereign," "the Queen," "the Crown," means the king or the queen, his or her heirs and successors, sovereigns of the United Kingdom of Great Britain and Ireland.

2. The words "imperial parliament" mean the parliament of the United Kingdom of Great Britain and Ireland; the words "imperial acts or statutes" mean the laws passed by that parliament, and the words "act" and "statute" whenever they are made use of in this code, without qualification, mean the acts and statutes of the parliament of Canada.

By the words "provincial parliament" is understood the parliament of Canada, and the words "provincial acts or statutes" mean the laws passed by that parliament.

3. The words "governor," "governor of this province," "Governor General," or "Governor in Chief," mean the governor, lieutenant-governor or the person administering the government of this province.

4. "Governor in Council," means the governor, lieutenant-governor, or the person administering the government, acting with the advice of the executive council of this province.

5. The word "proclamation" means proclamation under the great seal; and by "great seal" the great seal of the province of Canada is understood.

6. "Lower Canada" means all that part of the province of Canada which, previously to the union, constituted the province of Lower Canada; and "Upper Canada" that part which, at the same time, constituted the province of Upper Canada.

7. The words "The United Kingdom" mean the United Kingdom of Great Britain and Ireland; and "The United States," the United States of America.

8. The name commonly given to a country, place, body, corporation, society, officer, functionary, person, party or thing, designates and means the country, place, body, corporation, society, officer, functionary, person, party or thing thus named, without the necessity of more ample description.

9. The masculine gender includes both sexes, unless it appears by the context that it is only applicable to one of them.

10. The singular number extends to more than one person, or more than one thing of the same sort, whenever the context admits of such extension.

11. The word "person" includes bodies politic and corporate, and extends to heirs and legal representatives, unless such meaning is contrary to law or inconsistent with the particular circumstances of the case.

12. The words "writing," "written," or terms of like import, include words printed or otherwise traced or copied.

13. The word "month" means a calendar month.

14. By "holidays" are understood the following days:—Sundays, New Year's Day, the Epiphany, the Annunciation, Good Friday, the Ascension, *Corpus-Christi*, the festival of St. Peter and St. Paul, All Saints' Day, Christmas Day and any other day fixed by proclamation as a day of general fast or thanksgiving; saving the special provisions established by the statutes concerning the collection of the revenue and the payment of bills of exchange and promissory notes.

15. The word "oath" includes the solemn affirmation which certain persons are permitted to make instead of an oath.

16. The word "magistrate" means a justice of the peace. "Two justices of the peace" means two or more justices sitting or acting together. When any thing is ordered to be done by or before a justice of the peace, magistrate, functionary or public officer, one is understood whose powers or jurisdiction extend to the place where such thing ought to be done.

The authority given to do a thing, carries with it all the powers necessary for that purpose.

17. The right of nominating to an office or employment carries with it that of removal.

18. The duties imposed and the powers conferred upon an officer or public functionary, in his official capacity, pass to his successor, and pertain to his deputy in so far as they are compatible with the charge of the latter.

19. When an act is to be performed by more than two persons, it may be validly done by the majority of them, except in the cases otherwise specially provided.

20. The pound sterling is equivalent to the sum of four dollars eighty-six cents and two-thirds, or one pound four shillings and four pence, currency. The "sovereign" is of like value.

21. By the terms "inhabitant of Lower Canada" is meant a person having his domicile in that part of the province.

22. The terms "acts of civil status" mean the entries made in the registers kept according to law, to establish births, marriages and burials.

"Registers of civil status" are the books so kept and in which such acts are entered.

"Officers of civil status" are those entrusted with the keeping of such registers.

23. By "bankruptcy" is meant the condition of a trader who has discontinued his payments.

24. A fortuitous event is one which is unforeseen, and caused by superior force which it was impossible to resist.

BOOK FIRST.

OF PERSONS.

TITLE FIRST.

OF THE ENJOYMENT AND LOSS OF CIVIL RIGHTS.

CHAPTER FIRST.

OF THE ENJOYMENT OF CIVIL RIGHTS.

18. Every British subject is, as regards the enjoyment of civil rights in Lower Canada, on the same footing as those born therein, saving the special rules relating to domicile.

19. The quality of British subject is acquired either by right of birth, or by operation of law.

20. A person born in any part of the British Empire, even of an alien, is a British subject by right of birth, as also is he whose father or grandfather by the father's side is a British subject, although he be himself born in a foreign country; saving the exceptions resulting from special laws of the empire.

21. An alien becomes a British subject by operation of law, by conforming to the conditions the law prescribes.

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22. An alien woman is naturalized by the mere fact of the marriage she contracts with a British subject.

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CHAPTER SECOND.

OF THE LOSS OF CIVIL RIGHTS.

36. A person civilly dead,

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6. He is incapable of contracting a marriage that will produce any civil effect.

7. Marriage previously contracted by him is dissolved for the future, in so far as regards its civil effects only; the marriage tie subsists.

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TITLE FOURTH.

OF ABSENTEES.

CHAPTER FOURTH.

OF THE EFFECTS OF ABSENCE IN RELATION TO MARRIAGE.

108. The presumptions of death arising from absence, whatever be its duration, do not apply in the case of marriage; the husband or wife of the absentee cannot marry again without producing positive proof of the death of such absentee.

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TITLE FIFTH.

OF MARRIAGE

CHAPTER FIRST.

OF THE QUALITIES AND CONDITIONS NECESSARY FOR CONTRACTING MARRIAGE.

115. A man cannot contract marriage before the full age of fourteen years, nor a woman before the full age of twelve years.

116. There is no marriage when there is no consent.

117. Impotency, natural or accidental, existing at the time of the marriage, renders it null; but only if such impotency be apparent and manifest.

This nullity cannot be invoked by any one but the party who has contracted with the impotent person, nor at any time after three years from the marriage.

118. A second marriage cannot be contracted before the dissolution of the first.

119. Children who have not reached the age of twenty-one years must obtain the consent of their father and mother before contracting marriage; in case of disagreement, the consent of the father suffices.

120. If one of them be dead or unable to express his will, the consent of the other suffices.

121. A natural child who has not reached the age of twenty-one years must be authorized, before contracting marriage, by a tutor *ad hoc* duly appointed for the purpose.

122. If there be neither father nor mother, or if both be unable to express their will, minor children, before contracting marriage, must obtain the consent of their tutor, or, in cases of emancipation, their curator, who is bound, before giving such consent, to take the advice of a family council, duly called to deliberate on the subject.

123. Respectful requisitions to the father and mother are no longer necessary.

124. In the direct line, marriage is prohibited between ascendants and descendants and between persons connected by alliance, whether they are legitimate or natural.

125. In the collateral line, marriage is prohibited between brother and sister, legitimate or natural, and between those connected in the same degree by alliance, whether they are legitimate or natural.

126. Marriage is also prohibited between uncle and niece, aunt and nephew.

127. The other impediments recognized according to the different religious persuasions, as resulting from relationship or affinity or from other causes, remain subject to the rules hitherto followed in the different churches and religious communities.

The right, likewise, of granting dispensations from such impediments appertains, as heretofore, to those who have hitherto enjoyed it.

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135. A marriage solemnized out of Lower Canada between two persons, either or both of whom are subject to its laws, is valid, if solemnized according to the formalities of the place where it is performed, provided that the parties did not go there with the intention of evading the law.

CHAPTER THIRD.

OF OPPOSITIONS TO MARRIAGE.

136. The solemnizing of a marriage may be opposed by any person already married to one of the parties intending to contract.

137. The marriage of a minor may be opposed by his father or, in default of the latter, by his mother.

138. In default of both father and mother, the tutor or, in cases of emancipation, the curator may also oppose the marriage of such minor; but the court to which such opposition is submitted, cannot decide on its merits without the advice of a family council, which it must order to be called.

139. If there be neither father nor mother, tutor nor curator, or if the tutor or curator have consented to the marriage without taking the advice of a family council, the grandfathers and grandmothers, the uncles and aunts, and the cousins-german, who are of full age, may oppose the marriage of their minor relative ; but only in the two following cases :—

1. When a family council, which, according to article 122, should have been consulted, has not been so ;
2. When the party to be married is insane.

140. When opposition is made under the circumstances and by any of the persons mentioned in the preceding article, if the minor have neither tutor nor curator, the opposant is bound to cause one to be appointed ; if the minor have already a tutor or curator, who has consented to the marriage without consulting a family council, the opposant must cause a tutor *ad hoc* to be appointed ; in order that such tutor, curator, or tutor *ad hoc* may represent the interests of the minor in such opposition.

141. If a person about to be married, being of the age of majority, be insane, and not interdicted, the following persons may oppose the marriage, in the following order :

1. The father, and in his default, the mother ;
2. In default of both father and mother, the grandfathers and grandmothers ;
3. In default of the latter, the brothers or sisters, uncles or aunts, or cousins-german, of the age of majority ;
4. In default of all the above, those related or allied to such person who are qualified to take part in the meeting of a family council, which should be consulted as to the interdiction.

142. When the opposition is founded on the insanity of the person about to be married, the opposant is bound to apply for the interdiction and to have it pronounced without delay.

143. Whatever may be the quality of the opposant, it is his duty to adopt and follow up the formalities and proceedings necessary to have his opposition brought before the court and decided within the legal delays, a demand for its dismissal not being required ; in default of his so doing, the opposition is regarded as never having been made, and the marriage ceremony is proceeded with notwithstanding.

144. The Code of Civil Procedure contains the rules as to the form, contents and notification of oppositions to marriage, as well as those relative to the peremption mentioned in the preceding article, and to the other proceedings required.

145. The oppositions are brought before the court of original jurisdiction of the domicile of the party whose marriage is opposed, or of the place where the marriage is to be solemnized, or before a judge of such court.

146. Proceedings upon appeals from such judgments are summary and take precedence.

147. If the opposition be rejected, the opposants, other than the father and mother, may be condemned to pay costs, and are liable for damages according to circumstances.

CHAPTER FOURTH.

OF ACTIONS FOR ANNULLING MARRIAGE.

148. A marriage contracted without the free consent of both parties, or of one of them, can only be attacked by such parties themselves, or by the one whose consent was not free.

When there is error as to the person, the marriage can only be attacked by the party led into error.

149. In the cases of the preceding article, the party who has continued cohabitation during six months after having acquired full liberty or become aware of the error, cannot seek the nullity of the marriage.

150. A marriage contracted without the consent of the father or mother, tutor or curator, or without the advice of a family council, in cases where such consent or advice was necessary, can only be attacked by those whose consent or advice was required.

151. In the cases of articles 148 and 150, an action for annulling marriage cannot be brought by the husband or wife, tutor or curator, or by the relations whose consent is required, if the marriage have been either expressly or tacitly approved by those whose consent was necessary; nor if six months have been allowed to elapse without complaint on their part since they became aware that the marriage had taken place.

152. Any marriage contracted in contravention of articles 124, 125 and 126, may be contested either by the parties themselves, or by any of those having an interest therein.

153. But a marriage contracted before the parties, or either of them, have attained the age required, can no longer be contested :—

1. When six months have elapsed since the party or parties have attained the proper age :

2. When the wife, under that age, has conceived before the termination of the six months.

154. The father, mother, tutor or curator, or the relations who have consented to the marriage, in the cases mentioned in the preceding article, are not allowed to seek the nullity of such marriage.

155. In the cases referred to in article 152, where the action for annulling the marriage belongs to all those interested, the interest must be existing and actual, to permit the exercise of the right of action by the grandparents, collateral relatives, children born of another marriage, and third persons.

156. Every marriage which has not been contracted openly, nor solemnized before a competent officer, may be contested by the parties themselves and by all those who have an existing and actual interest, saving the right of the court to decide according to the circumstances.

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CHAPTER SEVENTH.

OF THE DISSOLUTION OF MARRIAGE.

185. Marriage can only be dissolved by the natural death of one of the parties ; while both live it is indissoluble.

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TITLE SIXTH.

OF SEPARATION FROM BED AND BOARD.

CHAPTER FOURTH.

OF THE EFFECTS OF SEPARATION FROM BED AND BOARD.

206. Separation from bed and board, from whatever cause it arises, does not dissolve the marriage tie ; neither husband nor wife, therefore, can contract a new marriage while both are living.

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TITLE ELEVENTH.

OF CORPORATIONS.

CHAPTER SECOND.

OF THE RIGHTS, PRIVILEGES AND DISABILITIES OF CORPORATIONS.

367. All corporations are prohibited from carrying on the business of banking unless they have been specially authorized to do so by their title of creation.

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CHAPTER THIRD.

OF THE DISSOLUTION OF CORPORATIONS AND THE LIQUIDATION OF THEIR AFFAIRS.

369. [*Ecclesiastical and secular corporations of a public nature, other than those formed for the mutual assistance of their members, cannot be dissolved by mutual consent without a formal and legal surrender or the authority of the legislature, as the case may be.*]

The same rule applies to banks, to railway, canal, telegraph, toll-bridge, and turnpike companies, and generally to private corporations who have obtained privileges which are exclusive or exceed those resulting by law from incorporation.

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BOOK SECOND.

OF PROPERTY, OF OWNERSHIP AND OF ITS DIFFERENT MODIFICATIONS.

TITLE FIRST

OF THE DISTINCTION OF THINGS

CHAPTER THIRD.

OF PROPERTY IN ITS RELATIONS WITH THOSE TO WHOM IT BELONGS OR WHO POSSESS IT.

400. Roads and public ways maintained by the state, navigable and floatable rivers and streams and their banks, the sea-shore, lands reclaimed from the sea, ports, harbors and roadsteads and generally all those portions of territory which do not constitute private property, are considered as being dependencies of the crown domain.

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402. The gates, walls, ditches and ramparts of military places and of fortresses also belong to the crown.

403. The same rule applies to the lands, fortifications and ramparts of places which are no longer used for military purposes; they belong to the crown, if they have not been validly alienated.

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BOOK THIRD.

OF THE ACQUISITION AND EXERCISE OF RIGHTS OF PROPERTY.

593. [*Things found on the ground, on the public highways or elsewhere, even on the property of others, or which are otherwise without a known owner, are, in many cases, subject to special laws, as to the public notices to be given, the owner's*

right to claim them, the indemnification of the finder, their sale, and the appropriation of their price.

In the absence of such provisions, the owner who has not voluntarily abandoned them, may claim them in the ordinary manner, subject to the payment, when due, of an indemnity to the person who found and preserved them; if they be not claimed, they belong to such person by right of occupancy.

Unnavigable rivers are, for the purposes of this article, considered as places on land.]

594. Among the things subject to the special provisions mentioned in the preceding article are :

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2. Unclaimed goods in the hands of wharfingers, warehouse-keepers, and carriers either by land or by water ;

3. Articles remaining in the post-office with dead letters ;

4. Things suspected to have been stolen, remaining in the hands of officers of justice.

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TITLE SECOND.

OF GIFTS INTER VIVOS AND BY WILL.

CHAPTER SECOND.

OF GIFTS INTER VIVOS.

803. If at the time of the gift, and deduction being made of the things given, the donor were insolvent, the previous creditors, whether their claims are hypothecary or not, may obtain the revocation of the gift, even though the donee were ignorant of the insolvency.

In the case of insolvent traders, gifts made by them within three months previous to the assignment, or the writ of attachment in compulsory liquidation, are voidable, as presumed to be fraudulent.

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TITLE FIFTH.

OF SALE

CHAPTER NINTH.

OF THE SALE OF REGISTERED VESSELS.

1569. Special provisions concerning the sale of registered ships or vessels are contained in the fourth book of this code in the title *Of Merchant Shipping*.

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CHAPTER TENTH.

OF THE SALE OF DEBTS AND OTHER INCORPOREAL THINGS.

1573. The two last preceding articles do not apply to bills, notes or bank checks payable to order or to bearer, no signification of the transfer of them being necessary; nor to debentures for the payment of money, nor to transfers of shares in the capital stock of incorporated companies, which are regulated by the respective acts of incorporation or the by-laws of such companies.

Notes for the delivery of grain or other things, or for the payment of money, and payable to order or to bearer, may be transferred by endorsement or delivery, without notice, whether they are payable absolutely or subject to a condition.

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TITLE SEVENTH.

OF LEASE AND HIRE.

CHAPTER THIRD.

OF THE LEASE AND HIRE OF WORK.

1676. Notice by carriers of special conditions limiting their liability, is binding only upon persons to whom it is made known; and notwithstanding such notice and the knowledge thereof, carriers are liable whenever it is proved that the damage is caused by their fault or the fault of those for whom they are responsible.

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1678. If by reason of a fortuitous event, or irresistible force, the transportation and delivery of the thing be not made within the stipulated term, the carrier is not liable in damages for the delay.

1679. The carrier has a right to retain the thing transported until he is paid for the carriage or freight of it.

1680. The reception of the thing transported and payment of the carriage or freight, without protest, extinguish all right of action against the carrier: unless the loss or damage is such that it could not then be known, in which case the claim must be made without delay after the loss or damage becomes known to the claimant.

1681. The conveyance of persons and things by railway is subject to certain special rules, provided in the *Act respecting Railways*.

1682. Special rules relating to the contract of affreightment and the conveyance of passengers in merchant vessels are contained in the fourth book.

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TITLE NINTH.

OF LOAN.

CHAPTER THIRD.

OF LOAN UPON INTEREST.

1785. Interest upon loans is either legal or conventional. The rate of legal interest is fixed by law at six per cent. yearly.

The rate of conventional interest may be fixed by agreement between the parties, with the exception:—

1. Of certain corporations mentioned in the act intituled: *An Act respecting interest*, which cannot receive more than the legal rate of six per cent. ;

2. Of certain other corporations which are limited as to the rate of interest by special acts ;

3. Of banks which cannot receive more than seven per cent.

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TITLE ELEVENTH.

OF PARTNERSHIP.

CHAPTER FOURTH.

OF THE DIFFERENT KINDS OF PARTNERSHIPS.

1886. In case of the insolvency or bankruptcy of the partnership, no special partner is allowed, under any circumstances, to claim as a creditor, until the claims of all the other creditors of the partnership have been satisfied.

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TITLE SEVENTEENTH.

OF PRIVILEGES AND HYPOTHECS.

CHAPTER SECOND.

OF PRIVILEGES

1989. The crown has certain rights and privileges resulting from the laws relating to customs, and from other provisions contained in special statutes concerning matters of public administration.

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1998. The unpaid vendor of a thing has two privileged rights :

1. A right to revendicate it ;

2. A right of preference upon its price.

In the case of insolvent traders, these rights must be exercised within fifteen days after the sale.

1999. The right to revendicate is subject to four conditions :

1. The sale must not have been made on credit ;
2. The thing must still be entire and in the same condition ;
3. The thing must not have passed into the hands of a third party who has paid for it ;
4. It must be exercised within eight days after the delivery ; saving the provision concerning insolvent traders contained in the last preceding article.

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2007. The privileges upon ships, upon their cargo and their freight, are declared in the title *Of Merchant Shipping*.

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CHAPTER THIRD.

OF HYPOTHECS.

2022. Moveables are not susceptible of hypothecation ; except as provided in the titles *Of Merchant Shipping* and *Of Bottomry and Respondentia*.

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OF LEGAL HYPOTHEC.

[**2024.** *The only rights and claims to which legal hypothec is attached, under the restrictions hereinafter mentioned, are declared in paragraphs one, two, three and four of this section.*

2025. *Legal hypothec either affects all the immoveables generally, or is limited to some of them only.*

2026. *Legal hypothec affects such immoveables only as belong to the debtor and are described in a notice filed and registered, as prescribed in the title "Of Registration of Real Rights."*

2027. *Creditors who acquired a legal hypothec before the thirty-first day of December, one thousand eight hundred and forty-one, may nevertheless exercise it upon all the immovable property held by the debtor at or since the time of the acquisition of such hypothec.*

2028. *Legal hypothecs anterior to the first day of September, one thousand eight hundred and sixty, are governed by the laws in force when they were created.]*

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§ 3. *Legal hypothec of the Crown.*

2032. The legal hypothec of the crown in cases where it exists, is, like legal hypothec in general, subject to the preliminary provisions of this section.

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TITLE EIGHTEENTH.

OF REGISTRATION OF REAL RIGHTS.

CHAPTER FIRST.

GENERAL PROVISIONS.

2090. The registration of a title conferring real rights in or upon the immoveable property of a person, made within the thirty days previous to his bankruptcy, is without effect; saving the case in which the delay given for the registration of such title, as mentioned in the following chapter, has not yet expired.

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CHAPTER FIFTH.

OF THE CANCELLING OF REGISTRATIONS OF REAL RIGHTS.

2151. The consent to the cancelling and the acquittance or certificate of discharge may be in authentic form or under private signature.

When under private signature they must be attested by two witnesses, and cannot be received by the registrar unless they are accompanied by an affidavit of one of such witnesses sworn to before one of the functionaries mentioned in articles 2141, 2142, 2143 and 2144, as the case requires, and establishing that the money has been paid, in whole or in part, and that such acquittance, certificate of discharge, or consent to the cancelling was signed in the presence of such witness by the party granting it.

The discharge of any hypothec in favour of the Crown may be entered in the margin against the registry of such hypothec upon the production of a copy:—

1. Of an Order of the Governor in Council, certified by the clerk of the Executive Council or his deputy;
2. Or of a certificate of Her Majesty's attorney-general or solicitor-general for Lower Canada, stating that such hypothec is discharged in whole or in part.

The discharge of any hypothec securing a life-rent is entered on the margin upon production of the certificate of death of the person on whose life the rent is created, accompanied by an affidavit identifying such person, and such

affidavit may be received and certified by one of the functionaries mentioned in articles 2141, 2142, 2143 and 2144, as the case requires.

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TITLE NINETEENTH.

OF PRESCRIPTION.

CHAPTER FOURTH.

OF CERTAIN THINGS IMPRESCRIPTIBLE AND OF PRIVILEGED PRESCRIPTIONS.

2211. The Crown may avail itself of prescription. The subject may interrupt such prescription by means of a petition of right, apart from the cases in which the law gives another remedy.

Among privileged persons, the privilege takes effect in the matter of prescription.

2212. The rights of the Crown with regard to sovereignty and allegiance are imprescriptible.

2213. Sea-beaches and lands reclaimed from the sea, ports, navigable or floatable rivers, their banks and the wharves, works and roads connected with them, public lands, and generally all immoveable property and real rights forming part of the domain of the Crown are imprescriptible.

2214. The rights of the Crown to the principal of rents, dues and revenues owing and payable to it, and to the capital sums accruing from the alienation or from the use of crown property, are also imprescriptible.

2215. All arrears of rents, dues, interest and revenues, and all debts and rights, belonging to the Crown, not declared to be imprescriptible by the preceding articles, are prescribed by thirty years.

Subsequent purchasers of immoveable property charged therewith cannot be liberated by any shorter period.

2216. Property escheated to the Crown, by failure of heirs, bastardy or forfeiture, is not considered as incorporated or assimilated to the Crown domain for purposes of prescription until a declaration to that effect is made, or until after ten years of enjoyment and actual possession, in the name of the Crown, of the totality of the rights thus escheated in the particular case.

Until such incorporation or assimilation, such property continues to be subject to the ordinary prescriptions.

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BOOK FOURTH.

COMMERCIAL LAW.

TITLE FIRST.

OF BILLS OF EXCHANGE, NOTES AND CHEQUES.

CHAPTER FIRST.

OF BILLS OF EXCHANGE.

SECTION I.

OF THE NATURE AND REQUISITES OF BILLS OF EXCHANGE.

2279. A bill of exchange is a written order by one person to another for the payment of money absolutely and at all events.

2280. It is essential to a bill of exchange,
That it be in writing and contain the signature or name of the drawer ;
That it be for the payment of a specific sum of money only ;
That it be payable at all events without any condition.

2281. The parties to a bill of exchange at the time of making it are the drawer of the bill and the payee.

The drawee becomes a party by acceptance and is then called the acceptor.

Indorsers, warrantors upon the face of the bill, the person requested to pay *au besoin* who accepts, acceptors *supra protest* and holders also become parties.

2282. A bill of exchange may be made payable either to a certain person by name or other sufficient indication, or to such person or his order, or to the order of the drawer, or to bearer.

If the name of the payee be left in blank the legal holder of the bill may fill up the blank.

2283. If no time be specified in the bill for its payment it is held to be payable on demand ; if no place be specified it is payable generally.

2284. Foreign bills of exchange are usually drawn in sets of several parts, all of which the drawer is bound to deliver to the payee.

2285. When a bill contains the words "value received," value for the amount of it is presumed to have been received on the bill and upon the indorsements thereon. The omission of these words does not render the bill invalid.

SECTION II.

OF THE NEGOTIATION OF BILLS OF EXCHANGE.

2286. Bills of exchange payable to order are transferred by indorsement, which may be either in full or in blank. When indorsed in blank, they become transferable by delivery. Bills payable to bearer are transferable by delivery either with or without endorsement.

2287. The transfer of a bill by indorsement may be made either before or after it becomes due. In the former case the holder acquires a perfect title free from all liabilities and objections which any parties may have had against it in the hands of the indorser; in the latter case the bill is subject to such liabilities and objections, in the same manner as if it were in the hands of the previous holder.

2288. An indorsement may be restrictive, qualified or conditional, and the rights of the holder under such indorsement are regulated accordingly.

But no indorsement other than that by the payee can stop the negotiability of the bill.

2289. The holder may, at his option, strike out the last indorsement, although it be in full, and any prior indorsement in blank subsequent to that of the payee.

SECTION III.

OF ACCEPTANCE.

2290. Bills of exchange payable at sight, or at a certain period of time after sight or after demand, must be presented for acceptance.

The presentment is made by the holder, or in his behalf, to the drawee or his representative, at his domicile or place of business, or if the drawee be dead or cannot be found, and is not represented, presentment is made at his last known domicile or place of business.

If there be also a drawee *au besoin*, presentment is made to him in like manner.

2291. Presentment for acceptance when necessary must be made within a reasonable time from the making of the bill according to the usage of trade and the discretion of the courts.

2292. The acceptance must be in writing upon the bill or upon one of the parts of the bill.

2293. The acceptance must be absolute and unconditional, but if the holder consent to a conditional or qualified acceptance the acceptor is bound by it.

2294. The effect of acceptance is to oblige the acceptor to pay the bill to the holder according to its tenor.

The signature of the drawer is admitted by the acceptance and cannot afterwards be denied by the acceptor against a holder in good faith.

2295. When a bill has been accepted and delivered to the holder the acceptance cannot be cancelled otherwise than by the consent of all the parties to the bill.

2296. When a bill has been protested for non-acceptance or for non-payment it may with the consent of the holder be accepted by a third person for the honor of the parties to it or of any of them. Such acceptance benefits the parties only who are subsequent to the one for whose honor it is made.

2297. An acceptor *supra protest* is bound to give notice of his acceptance without delay to the party for whose honor he accepts and to other parties who may be liable to him on the bill.

SECTION IV.

OF NOTING AND PROTEST FOR NON-ACCEPTANCE.

2298. Whenever acceptance of a bill of exchange is refused by the drawee the bill may be forthwith protested for non-acceptance, and after due notice of such protest to the parties liable upon it, the holder may demand immediate payment of it from such parties in the same manner as if the bill had become due and had been protested for non-payment.

The holder is not bound afterwards to present the bill for payment, or, if it be so presented, to give notice of the dishonor.

2299. The holder of any bill of exchange, instead of protesting upon the refusal to accept, may at his option cause it to be noted for non-acceptance, by a duly qualified notary; such noting to be made underneath or to be endorsed upon a copy of the bill and kept upon record by the officiating notary.

2300. When a bill which has been noted for non-acceptance, as provided in the last preceding article, is afterwards

protested for non-payment, a protest for non-acceptance need not be extended, but the noting, with the date thereof and the name of the notary by whom the same was made, must be stated in the protest for non-payment.

2301. Upon every bill noted or protested for non-acceptance, the words "noted for non-acceptance," or "protested for non-acceptance," as the case may be, together with the date of noting or protesting, and his fees and charges must be written or stamped by the officiating notary, and subscribed by him with his name or initials as such notary.

2302. When a bill is noted for non-acceptance the holder is not bound to give notice of the same in order to hold any party liable thereon. But whenever a bill so noted is afterwards protested for non-payment, the notice of such protest must contain a notice of the previous noting for non-acceptance.

2303. The noting and protesting of bills of exchange for non-acceptance and the giving notice thereof, are done by the ministry of a single public notary without witnesses, in the manner and according to the forms prescribed by the act intituled: *An Act respecting bills of exchange and promissory notes.*

2304. In case there is no notary in the place, or he is unable or refuses to act, any justice of the peace in Lower Canada may make such noting and protest and give notice thereof in the same manner, and his acts in that behalf have the same effect as if done by a notary; but such justice must set forth in the protest, the reasons why the same was not made by the ministry of a notary.

2305. The duplicate protest and notice, with the certificate of service, and all copies thereof attested by the signatures of the notary or the justice of the peace, as the case may be, are *prima facie* evidence.

SECTION V.

OF PAYMENT.

2306. Every bill of exchange must be presented by the holder, or in his behalf, to the drawee or acceptor for payment, on the afternoon of the third day after the day it becomes due, or after presentment for acceptance, if drawn at sight; unless such third day falls upon a legal holiday, in which case the next day thereafter not being a legal holiday is the last day of grace. If the bill be payable at a bank, presentment may be made there either within or after the usual hours of banking.

If the bill be unaccepted and there be a drawee *au besoin*, presentment must be made in like manner to him also.

2307. If a bill of exchange be made payable at any stated place, either by its original tenor or by a qualified acceptance, presentment must be made at such place.

2308. If the bill be payable generally, presentment is made to the drawee or acceptor, as the case may be, either personally, or at his residence, or office, or usual place of business; or if by reason of his absence and not having any known residence, or office, or place of business, or of his death, such presentment cannot be so made, it may be made at his last known residence, or office, or usual place of business, where the acceptance, or, if there be no acceptance, where the bill bears date.

2309. If a bill payable generally be accepted before and become due after the appointment duly notified of an assignee to the estate of the acceptor, in the case of an insolvent trader, presentment for payment may be made either to the insolvent or to the assignee personally, or at the residence, or office, or usual place of business of either of them.

2310. The acceptor, drawer and endorsers of a bill of exchange are jointly and severally liable to the holder for the payment of it.

The liability of the drawer and endorsers and also of acceptors *supra protest*, is subject to the rules concerning protest and notice herein contained.

2311. A third person who becomes warrantor on a bill of exchange, is liable in the same manner and to the same extent as the person in whose behalf he so becomes warrantor.

He is bound by the diligence which binds his principal, and is not entitled to any notice of protest apart from the latter.

2312. The obligation of the acceptor to pay the bill is primary and unconditional, and legal payment by him discharges the bill, with respect to all the parties, unless he is an acceptor for honor, in which case he is substituted in the place of the party for whose honor he accepts and has his recourse against such party also.

The rule above declared is without prejudice to the rights of an acceptor against the party for whose accommodation he has accepted.

2313. Payment by the drawer of an unaccepted bill finally discharges it. If it be accepted he is entitled to recover

from the acceptor, unless the acceptance is for his accommodation.

2314. Payment by an indorser entitles him to recover from the acceptor and drawer and all the indorsers prior to himself; saving the rights of the acceptor for his accommodation.

2315. Payment of a bill must be made upon that part of the set upon which the name of the party paying appears, and such part should be delivered to him, otherwise he will not be discharged from his liability to innocent holders of such part of the bill.

2316. Payment of a lost bill of exchange may be recovered upon the holder making due proof of the loss, and also, if the bill be negotiable, on giving security to the parties liable, according to the discretion of the court.

2317. Payment may be made of a bill of exchange after protest, by a third person for the honor of any party to it, and the person so paying has his recourse against the party for whom he pays and against all those liable to such party on the bill.

If the person paying do not declare for whose honor he pays, he has his recourse against all the parties upon the bill.

2318. Payment of a bill must include the full amount of it with interest from the last day of grace and all expenses of noting, protest and notices legally incurred upon it, with damages in the cases hereinafter stated.

SECTION VI.

OF PROTEST FOR NON-PAYMENT.

2319. Bills of exchange after presentment for payment, as provided in the fifth section of this chapter, if not then paid, are protested for non-payment, in the afternoon of the last day of grace.

The protest is held to have been made in the afternoon of the day on which it bears date unless the contrary appears on the face of it.

2320. Protests for non-payment are made by the ministry of the same persons and in the same manner and form as protests for non-acceptance, and are subject to the same rules of proof.

If the bill have been noted for non-acceptance it must be so stated in the protest for non-payment, as declared in article 2300.

2321. Bills drawn abroad upon any person in Lower Canada, or payable or accepted at any place therein, are subject, as to all parties therein resident and liable on such bills, to the rules contained in this title with respect to the days of grace and the noting and protesting of bills for non-acceptance and for non-payment, and the notification and service of protests, and also with respect to commission and interest.

2322. In default of protest for non-payment, according to the articles of this section, and of notice thereof, as provided in the section next following, the parties liable on the bill other than the acceptor are discharged, subject nevertheless to the exceptions contained in the two following articles.

2323. The drawer cannot avail himself of the want of protest or notice, unless he proves that provision was duly made by him for the payment of the bill.

2324. The want of protest and notice is excused when they are rendered impossible by inevitable accident or irresistible force. They may also be waived by any party to the bill, in so far as his rights only are concerned.

2325. Want of protest and notice is not excused by the loss of the bill, or by the death or bankruptcy of the drawee or of the party entitled to notice.

SECTION VII.

OF NOTICE OF PROTEST.

2326. Notice of protest for non-acceptance or for non-payment is given at the instance of the holder, or of any party liable on the bill who has received notice, and who, on paying, will be entitled to recover from other parties upon the bill.

2327. The notice is given by the notary or justice of the peace by whom the protest is made, and such notice, together with the certificate of service thereof, is in the form prescribed in the act intituled : *An Act respecting bills of exchange and promissory notes.*

2328. The notice is given to the party entitled thereto personally, or at his residence, or office, or usual place of business, and in case of death or absence, at his last residence, office, or place of business ; or the notice, directed to the party, may be deposited in the nearest post-office communicating with his actual or last residence, office, or place of business as aforesaid, as the case may be ; the postage being prepaid.

2329. In the case of an insolvent trader the notice may be given as provided in the last preceding article, or to the assignee of the insolvent estate, provided the bill were drawn or endorsed by the insolvent before the assignment, or the attachment in compulsory liquidation.

2330. Service of the notice of protest, whether for non-acceptance or for non-payment may be made at any time within three days next after the day on which the bill is protested.

2331. The party notified is bound to give notice, within a reasonable delay, to any parties to the bill whom he intends to hold liable upon it, other than the acceptor.

SECTION VIII.

OF INTEREST, COMMISSION AND DAMAGES.

2332. The amount of interest which may lawfully be paid upon the principal sum of a bill of exchange, for the discount thereof, may be taken at the time of discounting.

2333. Any person who discounts or receives a bill of exchange payable in Lower Canada, at a distance from the place where it is discounted or received, may take or recover, besides interest, a commission sufficient to defray the expenses of agency and exchange in collecting the bill. Such commission not in any case to exceed one per cent. on the amount of the bill.

This article does not apply to banks, which are subject to the provisions contained in the next following article.

2334. Banks in this province discounting bills of exchange may receive, for defraying the expenses attending their collection, a commission on the amount according to the rates and in the manner prescribed in the act intituled *An Act respecting interest*.

2335. Bills drawn for an usurious consideration are not void in the hands of an innocent holder for valid consideration.

2336. Bills of exchange drawn, sold, or negotiated within Lower Canada, which are returned under protest for non-payment, are subject to ten per cent. damages if drawn upon persons in Europe, or the West Indies, or in any part of America not within the territory of the United States or British North America.

If drawn upon persons in Upper Canada, or in any other of the British North American Colonies, or in the United States, and returned as aforesaid, they are subject to four per cent. damages.

With interest, at six per cent, in each case from the date of the protest.

2337. The amount of damages and interest specified in the last preceding article is reimbursed to the holder of the bill at the current rate of exchange of the day when the protest is produced and repayment demanded; the holder being entitled to recover so much money as will be sufficient to purchase another bill drawn on the same place and at the same term for a like amount, together with the damages and interest and also the expenses of noting and protesting and of postages thereon.

2338. When notice of the protest of a bill returned for non-payment is given by the holder thereof to any party secondarily liable upon it, in person or by writing delivered to a grown person at his counting-house, or dwelling-house, and they disagree as to the rate of exchange, the holder and the party notified appoint each an arbitrator to determine the rate; these in case of disagreement appoint a third, and the decision of any two of them given in writing to the holder is conclusive as to the rate of exchange, and regulates the sum to be paid accordingly.

2339. If either the holder or the party notified, as provided in the last preceding article, fail, for the space of forty-eight hours after the notification, to name an arbitrator on his behalf, the decision of the single arbitrator on the other part is conclusive.

SECTION IX.

GENERAL PROVISIONS.

2340. In all matters relating to bills of exchange not provided for in this code, recourse must be had to the laws of England in force on the thirtieth day of May, one thousand eight hundred and forty-nine.

2341. In the investigation of facts, in actions or suits founded on bills of exchange drawn or endorsed either by traders or other persons, recourse must be had to the laws of England in force at the time specified in the last preceding article, and no additional or different evidence is required or can be adduced by reason of any party to the bill not being a trader.

2342. The parties in the actions or suits specified in the last preceding article, may be examined under oath as provided in the title *Of Obligations*.

2343. The rules concerning the prescription of bills of exchange are contained in the title *Of Prescription*.

CHAPTER SECOND.

OF PROMISSORY NOTES.

2344. A promissory note is a written promise for the payment of money at all events, and without any condition. It must contain the signature or name of the maker and be for the payment of a specific sum of money only. It may be in any form of words consistent with the foregoing rules.

2345. The parties to a promissory note at the time of making it are the maker and the payee. The maker is subject to the same obligations as the acceptor of a bill of exchange

2346. The provisions concerning bills of exchange contained in this title apply to promissory notes when they relate to the following subjects, viz.:—

1. The indication of the payee ;
2. The time and place of payment ;
3. The expression of value ;
4. The liability of the parties ;
5. Negotiation by indorsement or delivery ;
6. Presentment and payment ;
7. Protest for non-payment and notice ;
8. Interest, commission, or usury ;
9. The law and the rules of evidence to be applied ;
10. Prescription.

2347. Parties liable on promissory notes made payable on demand are not entitled to days of grace for the payment thereof.

2348. The making, circulation, and payment of bank notes are regulated by the provisions of a statute intituled *An Act respecting banks and freedom of banking*, and by the special acts of incorporation of the banks respectively.

CHAPTER THIRD.

OF CHEQUES.

2349. A cheque is a written order upon a bank or banker for the payment of money. It may be made payable to a particular person, or to order, or to bearer, and is negotiable in the same manner as bills of exchange and promissory notes.

2350. Cheques are payable on presentment, without days of grace.

2351. The holder of a cheque is not bound to present it for acceptance apart from payment; nevertheless, if it be

accepted, he has a direct action against the bank or banker, without prejudice to his claim against the drawer, either upon the cheque or for the debt on account of which it was received.

2352. If the cheque be not presented for payment within a reasonable time, and the bank fail between the delivery of the cheque and such presentment, the drawer or indorser will be discharged to the extent of the loss he suffers thereby.

2353. Subject to the provisions contained in the last preceding article, the holder of a cheque who has received it from the drawer, may upon refusal of payment by the bank or banker return it to the drawer with reasonable diligence, and recover the debt for which it was given, or he may retain the cheque and recover upon it without protest.

If the cheque be received from any other party than the drawer, the holder may in like manner return it to such party, or he may recover from the parties whose names are upon it as in the case of an inland bill of exchange.

2354. In the absence of special provisions in this section, cheques are subject to the rules concerning inland bills of exchange in so far as their application is consistent with the usage of trade.

TITLE SECOND.

OF MERCHANT SHIPPING.

2355. The act of the imperial parliament intituled: *The Merchant Shipping Act*, 1854, contains the law concerning British ships in Lower Canada in all matters to which its provisions extend and are applicable therein.

CHAPTER FIRST.

OF THE REGISTRATION OF SHIPS.

2356. British ships must be registered in the manner and according to the rules and forms prescribed in the act referred to in the last preceding article.

Vessels under fifteen tons and vessels under thirty tons burthen, employed respectively in the particular navigation or in the coasting trade specified by the said act, are not subject to be registered.

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CHAPTER SECOND.

OF THE TRANSFER OF REGISTERED VESSELS.

2359. The transfer of registered British ships can be made only by a bill of sale executed in the presence of one

or more witnesses, containing a recital specified in the act of the imperial parliament, intituled: *The Merchant Shipping Act*, 1854, and entered in the book of registry of ownership in the manner in the said act provided. The rules respecting the persons qualified to make and receive such transfers and respecting the registry and certificate of ownership and priority of right are contained in the said act.

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2361. Transfers of ships and vessels of the description specified in the last two preceding articles, not made and registered in the manner therein respectively prescribed, do not convey to the purchaser any title or interest in the ship or vessel intended to be sold.

2362. No transfer of a fractional part of one of the sixty-four shares into which registered ships and vessels are by law divided can be made or registered; nor can any number of persons greater than thirty-two be, by reason of any sale, registered as owners of any such ship or vessel at the same time.

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2373. Vessels built in this province may also be transferred in security for loans in the manner declared in the next following chapter.

CHAPTER THIRD.

OF THE MORTGAGE AND HYPOTHECATION OF VESSELS.

2374. The rules concerning the hypothecation of vessels by contract of bottomry are contained in the title *Of Bottomry and Respondentia*.

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CHAPTER FOURTH.

OF PRIVILEGE AND MARITIME LIEN UPON VESSELS AND UPON THEIR CARGO AND FREIGHT.

2383. There is a privilege upon vessels for the payment of the following debts:—

1. The costs of seizure and sale, according to article 1995;
2. Pilotage, wharfage, and harbor dues, and penalties for the infraction of lawful harbor regulations;
3. The expense of keeping the vessel and rigging, and of repairing the latter since the last voyage;
4. The wages of the master and crew for the last voyage;
5. The sums due for repairing and furnishing the ship on her last voyage, and for merchandise sold by the captain for the same purpose;
6. Hypothecations upon the ship, according to the rules declared in the third chapter of this title and in the title *Of Bottomry and Respondentia*;

7. Premiums of insurance upon the ship for the last voyage ;

8. Damages due to freighters for not delivering the goods shipped by them, and in reimbursement for injury caused to such goods by the fault of the master or crew.

If the ship sold have not yet made a voyage, the seller, the workmen employed in building and completing her, and the persons by whom the materials have been furnished, are paid by preference to all creditors, except those for debts enumerated in paragraphs 1 and 2.

2384. A ship's-husband, or other agent, holding the ship's papers has a lien upon them for advances and charges due for the management of the business of the ship.

2385. The following debts are paid by privilege upon the cargo :—

1. Costs of seizure and sale ;
2. Wharfage ;
3. Freight upon the goods, according to the rules declared in the title *Of affreightment*, and what is due for the passage of the owner ;
4. Loans upon respondentia ;
5. Premiums of insurance upon the things insured.

2386. The following debts are paid by privilege upon the freight :—

1. The cost of seizure and distribution ;
2. The wages of the master and of the seamen and others employed in the vessel ;
3. Loans on bottomry according to the rules contained in the title *Of Bottomry and Respondentia*.

2387. The order of privileges declared in the foregoing articles is without prejudice to claims for damage by collision, or for average contributions, or for salvage, which are paid by privilege after the debts enumerated as 1, 2, in articles 2383 and 2385, and before or after other privileged debts, according to the circumstances under which the claim has arisen, and the usage of trade.

2388. The provisions contained in this chapter do not apply in cases before the Court of Vice-Admiralty.

Cases in that court are determined according to the civil and maritime laws of England.

CHAPTER FIFTH.

OF OWNERS, MASTERS AND SEAMEN.

2389. The owners, or a majority of them, appoint the master and may discharge him without assigning any cause unless it is otherwise specially agreed.

2390. The owners are civilly responsible for the acts of the master in all matters which concern the ship and voyage and for damages caused by his fault or the fault of the crew.

They are responsible in like manner for the acts and faults of any person lawfully substituted to the master.

The whole nevertheless subject to the provisions contained in this chapter and in the titles *Of Affreightment*, and *Of Bottomry and Respondentia* and in *The Merchant Shipping Act*, 1854.

2391. Any person who hires a vessel to have the exclusive control and navigation of it, is held to be the owner from the time of such hiring, with the rights and liabilities of an owner as respects third persons.

2392. In matters of common interest to the owners concerning the equipment and management of the vessel, the opinion of the majority in value governs, unless there is an agreement to the contrary.

If there be an equal division on the question whether the ship shall be employed or not, the opinion in favor of employment prevails; saving, in both cases, to the owners who object, the right to claim exemption from liability, and indemnity according to the circumstances and the discretion of a competent court.

2393. The sale of a ship by licitation cannot be ordered unless it is demanded by the owners of at least one half of the total interest in the ship, save in the case of an agreement to the contrary.

2394. The general powers of the master to bind the owner of the ship personally, and their mutual obligations toward each other are governed by the rules contained in the title *Of Lease and Hire*, and in the title *Of Mandate*, respectively.

2395. The master is personally liable to third persons for all obligations contracted by him respecting the ship, unless by express terms the credit is given to the owners only.

2396. The master engages the crew for the ship. This he does nevertheless in concert with the owners or ship's-husband when they are present at the place.

2397. The master is bound to see that the ship is properly furnished and prepared for the voyage, but if the owners or ship's-husband be present at the place, the master cannot, without special authority, cause extraordinary repairs to be made upon the ship, or buy sails, cordage or

provisions for the voyage, nor borrow money for that purpose ; subject to the exception contained in article 2604.

2398. He is bound to sail on the day appointed and to pursue his voyage without deviation or delay, subject to the conditions contained in the title *Of Affreightment*.

2399. He may, during the voyage, in cases of necessity borrow money or, if that be impossible, sell part of the cargo to repair the ship or to supply her with provisions or other necessary things.

2400. He cannot sell the ship without special authority from the owners, except in case of inability to prosecute the voyage, and manifest and urgent necessity for the sale.

2401. The master has all the authority over the seamen and other persons in the ship including the passengers, which is necessary for its safe navigation, management and preservation, and for the maintenance of good order.

2402. He may throw over board a part or the whole of the cargo in cases of imminent danger and when necessary for the preservation of the ship.

2403. The rights, powers and obligations of the owners and of the master with respect to the ship and cargo are further declared in the titles *Of Affreightment* and *Of Insurance*.

The rules concerning the master's powers to hypothecate the ship or cargo are declared in the title of *Of Bottomry and Respondentia*.

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2406. Prescription does not begin to run against the claim of seamen for their wages until after the expiration of the voyage.

TITLE THIRD.

OF AFFREIGHTMENT.

CHAPTER FIRST.

GENERAL PROVISIONS.

2407. Contracts of affreightment are either by charter-party, or for the conveyance of goods in a general ship.

2408. The contract may be made by the owner or the master of the ship, or by the ship's-husband as agent of the former.

If made by the master, it binds himself, and also the owner of the ship; unless it is made at a place where the owner or ship's-husband is present, and they disavow the contract, in which case it binds the master only.

If the ship be hired by a party who sublets it, he is subject in contracts of affreightment to the same rules as if he were owner.

2409. The ship, with her equipments and the freight, are bound to the performance of the obligations of the lessor, and the cargo to the performance of the obligations of the lessee or freighter.

2410. If, before the departure of the vessel, there be a declaration of war, or interdiction of trade with the country to which she is destined, or by reason of any other event of irresistible force the voyage cannot be prosecuted, the contract is dissolved, without either party being liable in damages.

The expense of loading and unloading the cargo is borne by the freighter.

2411. If the port of destination be closed, or the ship detained by irresistible force, for a time only, the contract subsists, and the master and freighter are mutually bound to await the opening of the port and the liberation of the ship, without either of them being entitled to damages. The rule applies equally if the obstruction arise during the voyage, and no increase of freight can be demanded.

2412. The freighter may nevertheless unload the goods during the detention of the ship for the causes stated in the last preceding article; subject to the obligation of re-loading after the obstruction has ceased, or of indemnifying the lessor for the full freight; unless the goods are of a perishable nature and cannot be replaced, in which case freight is due only to the place of the discharge.

2413. Contracts of affreightment and the obligations of the parties under them, are subject to the rules relating to carriers contained in the title *Of Lease and Hire*, when these are not inconsistent with the articles of this title.

CHAPTER SECOND.

OF CHARTER-PARTY.

2414. Affreightment by charter-party may be either of the whole ship or of some principal part of it, and for a determined voyage or a specified time.

2415. The charter-party, or memorandum of charter-party, usually specifies the name and burden of the ship,

with a stipulation that she is tight and staunch and well furnished and equipped for the voyage. It also contains stipulations as to the time and place of loading, the day of sailing, the rate and payment of freight, and the conditions of demurrage, with a declaration of the fortuitous events which exempt the lessor from liability, and such other covenants as the parties may see fit to add.

2416. If the time of loading and unloading the ship, and the demurrage be not agreed upon, they are regulated by usage.

2417. When goods are put on board of a ship in pursuance of a charter-party the master signs a bill of lading for them to the effect mentioned in article 2420.

2418. If the whole of the ship be leased, but it be not wholly loaded by the lessee, the master cannot receive other cargo without his consent; in case of any other cargo being received the lessee is entitled to the freight of it.

CHAPTER THIRD.

OF THE CONVEYANCE OF GOODS IN A GENERAL SHIP.

2419. The contract for the conveyance of goods in a general ship is that by which the master or the owner of a ship destined for a particular voyage engages separately with various persons, unconnected with each other, to convey their respective goods according to the bill of lading to the place of their destination, and there to deliver them.

CHAPTER FOURTH.

OF THE BILL OF LADING.

2420. The bill of lading is signed and delivered by the master or purser, in three or more parts, of which the master retains one; the freighter also keeps one, and sends one to the consignee.

Besides the names of the parties and of the ship, it states the nature and quantity of the goods shipped, with their marks and numbers in the margin, and the place of their delivery, the name of the consignee, the place of shipping and of the ship's destination, with the rate and manner of payment of the freight, and primage and average.

2421. When by the bill of lading the delivery of the goods is to be made to a person named or to his assigns, such person may transfer his right by endorsement and delivery of the bill of lading, and the ownership of the goods and all rights and liabilities in respect thereof are held to pass thereby to the indorsee; subject nevertheless to the rights of third persons.

2422. The freighter or lessee upon the signing and delivery to him of the bill of lading, is bound to return the receipts given by the master for the goods shipped. The bill of lading, in the hands of a consignee or indorsee, is conclusive evidence against the party signing it; unless there is fraud of which the holder is cognizant.

CHAPTER FIFTH.

OF THE OBLIGATIONS OF THE OWNER OR LESSOR AND OF THE MASTER.

2423. The lessor is obliged to provide a vessel of the stipulated burthen, tight and staunch, furnished with all tackle and apparel necessary for the voyage, and with a competent master and a sufficient number of persons of skill and ability to navigate her, and so to keep her to the end of the voyage. The master is obliged to take on board a pilot, when by the law of the country one is required.

2424. The master is obliged to receive the goods, and carefully arrange and stow them in the ship, and to sign such bills of lading as may be required by the freighter or lessee, according to article 2420, upon receiving from him the receipts given for the goods.

2425. The goods must not be stowed on deck without the consent of the freighter, unless in a particular trade or in inland or coasting voyages, where there is an established usage to that effect. If without such consent or usage the goods be so stowed and are lost by peril of the sea the master is personally liable.

2426. The ship must sail on the day fixed by the contract, or, if no day be fixed, within a reasonable time, according to circumstances and usage; and must proceed to her destination without deviation. If by the fault of the master the ship be delayed in her departure, or during the voyage, or at the place of discharge, or any loss or injury occur, he is liable in damages.

2427. The master is obliged to exercise all needful care of the cargo, and in case of wreck, or other obstruction to the voyage by a fortuitous event or irresistible force, he is obliged to use the diligence and care of a prudent administrator for the preservation of the goods, and for their conveyance to the place of destination, and for that purpose to engage another ship, if it be necessary.

2428. On the completion of the voyage, and after due compliance with the laws and regulations of the port, the master is obliged to deliver the goods without delay to the

consignee or his assignee, on production of the bill of lading and payment of the freight and other charges due in respect of it.

2429. The goods must be delivered in conformity with the terms of the bill of lading, and according to the law or usage observed in the place of delivery.

2430. Whenever any vessel has arrived at its destination in any port in Lower Canada, and the master thereof has notified the consignee, either by public advertisements or otherwise, that such cargo has reached the place designated in the bill of lading, such consignee is bound to receive the same within twenty-four hours after notice; and thereafter such cargo, so soon as placed on the wharf, is at the risk and charges of the consignee or owner.

2431. The time allowed for the discharge of cargoes consisting of certain kinds of merchandise is regulated by an act intituled: *An Act respecting the discharging of the cargoes of vessels.*

2432. The owner or master is not liable for loss or damage occasioned by the fault or incapacity of any qualified pilot, acting in charge of the ship within any district where the employment of such pilot is compulsory by law.

2433. The owner of a sea-going ship is not liable for the loss or damage, occurring without his actual fault or privity:—

1. Of anything whatsoever on board any such ship, by reason of fire; or

2. Of any gold, silver, diamonds, watches, jewels or precious stones on board such ship, by reason of any robbery, embezzlement, making away with or secreting of the same; unless the owner or shipper thereof has, at the time of shipping the same, inserted in his bill of lading, or otherwise declared in writing, to the master or owner of such ship, the true nature or value of such articles.

2434. When any damage or loss is caused to anything on board a sea-going ship, without the fault or privity of the owner, he is not answerable in damages to an extent beyond the value of the ship, and the freight due, or to grow due, during the voyage; provided that such value shall not be taken to be less than fifteen pounds sterling per registered ton, and that the owner shall be liable for every such loss and damage arising on distinct occasions, to the same extent as if no other loss or damage had arisen.

2435. The freight mentioned in the last preceding article is, for the purposes thereof, deemed to include the value of

the carriage of any goods belonging to the owners of the ship, passage-money, and the hire due or to grow due under any contract; except only such hire, in the case of a ship hired for time, as may not begin to be earned until the expiration of six months after the loss or damage.

2436. The provisions contained in articles 2433 and 2434 do not apply to any master or seaman, being also owner or part owner of the ship to which he belongs, to take away or lessen the liability to which he is subject in his capacity of master or seaman.

CHAPTER SIXTH.

OF THE OBLIGATIONS OF THE LESSEE.

SECTION I.

GENERAL PROVISIONS.

2437. The principal obligations of the lessee are: 1. To load the ship with the stipulated cargo, and within the time specified by the contract, or, if no time be specified, within a reasonable delay; 2. To pay the freight with primage and average, and demurrage when any is due.

2438. The lessee cannot put on board any prohibited or uncustomed goods, by which the ship may be subjected to detention or forfeiture, or goods of a dangerous nature, without notice to the master or owner.

2439. If the lessee fail to load the ship fully, as agreed by the charter-party, or if after loading, he withdraw the goods before the departure of the ship or during the voyage, he is liable to pay the whole freight, and to indemnify the master for all expenses and liabilities arising from such withdrawal.

2440. If the ship be delayed in her departure, or during the voyage, by the fault of the freighter, he is liable for demurrage and other charges.

2441. If the lessee agree to furnish a return cargo, and fail to do so, and the ship of necessity return unladen, the lessee is obliged to pay the whole freight, subject, in the latter case, to the deduction of such amount as the ship may have earned on the return voyage.

SECTION II.

OF FREIGHT, PRIMAGE, AVERAGE AND DEMURRAGE.

2442. Freight is the recompense payable for the lease of a ship, or for carrying goods upon a lawful voyage to the place of their destination. In the absence of express stipu-

lation it is not due until the carriage of the goods is completely performed, except in the cases specified in this section.

2443. The amount of freight is regulated by the agreement in the charter-party, or bill of lading, at a gross sum for the whole ship, or a certain part of it, or at a fixed rate per ton, or package, or otherwise. If not regulated by agreement, the rate is estimated upon the value of the service performed, according to the usage of trade.

2444. The amount of freight is not affected by the longer or shorter duration of the voyage, unless the agreement be to pay a certain sum by the month, or week, or other division of time, in which case the freight begins to run, if not otherwise stipulated, from the commencement of the voyage, and so continues, as well during its course, as during all unavoidable delay not occasioned by the fault of the master or lessor; subject nevertheless to the exception contained in the next following article.

2445. If the ship be detained by the order of a sovereign power, freight payable by time does not continue to run during such detention. The wages of the seamen and the expense of their maintenance are in such case a subject of general average.

2446. The master may discharge, at the place of loading, goods found in his ship, if they have not been declared, or he may recover freight upon them, at the usual rate paid, at the place of loading, for goods of a like nature.

2447. If the ship be obliged to return with her cargo, by reason of a prohibition of trade occurring during the voyage with the country to which she is bound, freight is due upon the outward voyage only, although a return cargo has been stipulated.

2448. If, without any previous fault of the master or lessor, it becomes necessary to repair the ship in the course of the voyage, the freighter is obliged either to suffer the necessary delay or to pay the whole freight. In case the ship cannot be repaired, the master is obliged to engage another; if he be unable to do so, freight is due only in proportion to the part of the voyage which is accomplished.

2449. Freight is due upon the goods which the master has of necessity sold to repair the ship, or to supply it with provisions and other urgent necessities, and he is obliged to pay for such goods the price which they would have brought at the place of destination.

This rule applies equally although the ship be afterwards lost on the voyage; but in that case the price is that at which the goods were actually sold.

2450. Freight is payable upon the goods cast overboard for the preservation of the ship and of the remainder of the cargo, and the value of such goods is to be paid to the owner of them by contribution on general average.

2451. Freight is not due upon goods lost by shipwreck, taken by pirates, or captured by a public enemy, or which without the fault of the freighter have wholly perished by a fortuitous event, otherwise than as mentioned in the last preceding article. If the freight or any portion of it have been paid in advance, the master is bound to return it, unless there is an agreement to the contrary.

2452. If the goods be recaptured or saved from the shipwreck, freight is due to the place of capture or wreck, and if they be afterwards conveyed by the master to their place of destination, the whole freight is due, subject to salvage.

2453. The master cannot keep the goods in his ship in default of payment of the freight; but, at the time of unloading, he may prevent them from being carried away, or cause them to be seized. He has a special privilege upon them while they remain in his possession, or the possession of his agent, for the payment of his freight, with primage and accustomed average as expressed in the bill of lading.

2454. The consignee, or other authorized person who receives the goods, is bound to grant a receipt for them to the master; and the acceptance of goods, under a bill of lading by which delivery is to be made to the consignee or his assigns, he or they paying freight, renders the person so receiving them liable for the freight due upon them, unless the person is the known agent of the shipper.

2455. Goods which are diminished in value or damaged by reason of intrinsic defect in them, or by a fortuitous event, cannot be abandoned for freight.

But if, without any fault of the freighter, casks containing wine, oil, honey, molasses, or other like things, have leaked so much that they are nearly or altogether empty, the casks may be abandoned in satisfaction of the freight.

2456. The obligation to pay primage and average, which are mentioned in the bill of lading, is subject to the same rules as the liability for freight; the primage is payable to the master in his own right, unless there is a stipulation to the contrary

2457. Demurrage is the compensation to be paid by the freighter for the detention of the ship beyond the time agreed upon, or allowed by usage, for loading and discharging.

2458. Any person who receives the goods under a bill of lading importing an obligation to pay demurrage, is liable for such demurrage as may become due on the discharge of the goods; subject to the rules declared in article 2454.

2459. Demurrage under express contract is due for all delays which are not caused by the shipowner or his agents. It does not begin to be computed until the goods are ready to be discharged, after which, if the stipulated time have expired, a further reasonable time must be allowed for their discharge.

2460. If the time, conditions and rate of demurrage be not agreed upon, they are regulated by the law and usage of the port where the claim arises.

TITLE FOURTH.

OF THE CARRIAGE OF PASSENGERS IN MERCHANT VESSELS.

2461. Contracts for the carriage of passengers in merchant vessels are subject to the provisions contained in the title *Of Affreightment*, in so far as they can be made to apply, and also to the rules contained in the title *Of Lease and Hire*, relating to the carriage of passengers.

2462. The special rules concerning the conveyance of passengers by sea in passenger ships, on voyages from the United Kingdom to this province, or on colonial voyages, or from this province to the United Kingdom, in any ship, are contained in the acts of the Imperial parliament, intituled respectively: *The Passengers Act*, 1855, and *The Passengers Act Amendment Act*, 1863, and in the lawful orders and regulations made by competent authority under the same.

* * * * *

2464. Passengers while in the vessel are entitled to fitting accommodation and food, according to agreement and to the special laws referred to in the foregoing articles, or, if there be no agreement and such laws do not apply, according to usage and the condition of the parties.

2465. The owner or master has a lien or privilege upon the baggage and other property of the passengers on board the vessel for the amount of the passage money.

2466. The passenger is subject to the authority of the master as declared in the title *Of Merchant Shipping*.

2467. Damages for personal injuries suffered by passengers are subject to the special rules contained in articles 2434, 2435, and 2436.

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TITLE FIFTH.

OF INSURANCE.

CHAPTER SECOND.

OF MARINE INSURANCE.

2552. Contribution by the ship and freight and by the goods whether saved or lost, rateably and according to their respective values, is made for damages voluntarily sustained and extraordinary expenses incurred, for the common safety of the ship and cargo.

These are called general or gross average losses, and are as follows :—

1. Money or other things given as a compensation to pirates to ransom the ship and cargo, or as salvage to recaptors ;

2. Loss by jettison ;

3. Masts, cables, anchors or other furniture of the ship, cut away, destroyed or abandoned ;

4. Damages caused by jettison to the goods which remain in the ship or to the ship itself ;

5. The wages and maintenance of seamen, during the detention of the ship in the course of her voyage, by a sovereign power, and during the necessary repairs of injuries of a nature to give rise to average contribution ;

6. The expense of unlading, to lighten the ship and enable her to enter a port of refuge or river, when she is compelled to do so by storm or by the pursuit of an enemy ;

7. Loss and expenses arising from the voluntary stranding of the ship for the purpose of escaping total loss or capture ;

And in general all damages voluntarily suffered and extraordinary expenses incurred for the common safety of the ship and cargo, from the time of loading and departure of the ship to the time of her arrival and discharge at the port of destination.

2553. Jettison gives rise to contribution only when it is made in imminent peril and is necessary for the preservation of the ship and cargo.

It may be of the cargo, or of the provisions, tackle or furniture of the ship.

2554. Jettison must be first made of things the least necessary, the most weighty, and of the least value.

2555. The ship's warlike stores and provisions, and the clothes of the crew, do not contribute, but the value of those lost by jettison is paid by contribution upon other effects generally.

The baggage of passengers does not contribute. If lost it is paid by contribution in which it shares.

2556. Goods for which there is no bill of lading or acknowledgment by the master, or which are put on board contrary to the charter-party, are not paid for by contribution if lost by jettison. They contribute if saved.

2557. Goods carried on deck, which are lost or damaged by jettison, are not paid for by contribution, unless they were so carried in conformity with an established usage and course of trade.

They contribute if saved.

2558. In cases of average contribution the ship and freight are estimated at their value at the port of discharge.

The goods lost, as well as those saved, are estimated in like manner, deducting freight, duties and other charges.

* * * * *

2560. No contribution is made for particular average losses. They are borne by the owner of the thing which has suffered the damage or occasioned the expense; saving his recourse against the insurer as declared in article 2527.

2561. If the ship be not saved by the jettison, no contribution takes place, and the goods saved are not held to contribute for those lost or damaged thereby.

2562. If the ship be saved by the jettison and continue her voyage, but be afterwards lost, the goods saved are subject to contribution at their actual value, deducting the costs of salvage.

2563. The goods jettisoned do not in any case contribute to the payment of losses happening afterwards to the goods saved.

The cargo does not contribute to the payment of the ship when lost or rendered unfit for navigation.

2564. In case of the loss of goods put into lighters to enable the ship to enter into a port or river, the ship and her whole cargo are subject to contribution; but if the ship be lost with the goods remaining on board, the goods in the lighters are not subject to contribution, although they arrive safely in port.

2565. It is the duty of the master on his arrival at the first port to make his declaration and protests in the customary form, and also together with some of his crew to make oath that the loss or expense sustained was for the safety of the ship and crew. The neglect to do so does not however affect the rights of the parties interested.

2566. The owners and master have a privilege and right of retention upon the goods on board the ship or their price for the amount of contribution for which these are liable.

2567. If after the contribution the goods jettisoned be recovered by the owner, he is bound to repay to the master and other interested parties, the amount of the contribution received by him, deducting therefrom the amount of damage suffered by the goods and the costs of salvage.

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TITLE SIXTH.

OF BOTTOMRY AND RESPONDENTIA.

2594. Bottomry is a contract whereby the owner of a ship or his agent, in consideration of a sum of money loaned for the use of the ship, undertakes conditionally to repay the same with interest, and hypothecates the ship for the performance of his contract. The essential condition of the loan is that if the ship be lost by a fortuitous event or irresistible force, the lender shall lose his money; otherwise it is to be repaid with a certain profit for interest and risk.

2595. If the loan be made not upon the ship but upon the goods laden in her the contract is called respondentia.

2596. The loan may be made upon the ship, freight and cargo together, or upon such portion of either as may be agreed upon by the parties.

2597. The contract must specify: 1. The amount of money loaned with the rate of interest to be paid; 2. The objects upon which the loan is made. It specifies also the nature of the risk.

2598. If the time of the risk do not appear from the contract, it runs, with respect to the ship and freight, from the day she sails until she is anchored or moored in the place of her destination.

With respect to the cargo, it runs from the time the goods are shipped until their delivery ashore.

2599. In loans upon bottomry the ship, with her tackle, furniture, armament and provisions, and freight earned, are held by privilege for the payment of the capital and interest of the money loaned upon them.

In loans upon respondentia the cargo is held in like manner.

If the loan be upon a part only of the ship or cargo such part only is held for the payment.

2600. Loans in the nature of contracts of bottomry or respondentia cannot be made upon the wages of sailors.

2601. A loan made for a sum exceeding the value of the objects affected for the payment of it may be annulled at the instance of the lender, if fraud be proved against the borrower.

If there be no fraud, the contract is valid to the amount of the objects affected for the payment, and the surplus of the sum borrowed must be repaid with legal interest at the place of borrowing.

2602. The borrower upon respondentia is not discharged from his liability by the loss of the ship and cargo; unless he proves that he had goods aboard, at the time of the loss, of the value of the amount loaned to him.

2603. A loan upon bottomry or respondentia may be made to the master, in case of urgent necessity, for the repair and other uses of the ship; but, if made to him without the authority of the owners in the place where they reside, or where communication with them is easy, such part only of the ship or cargo as may belong to the master is held for the payment of the loan; subject to the provisions contained in the next following article.

2604. The parts of the owners, even if residing in the place where the loan is made, are held for the payment of money loaned to the master for repairs and provisions, when the ship has been affreighted with the consent of such owners, and they have refused to furnish their contingent for putting her in condition for the voyage.

2605. Loans upon bottomry or respondentia, made for the latest voyage, are paid by preference before those of a preceding one, even when it is declared that the latter are continued by a formal renewal.

The loans made during the voyage are paid by preference over those contracted before the departure of the ship; and if several loans be contracted during the voyage, the last is preferred to any which precede it.

2606. The lender upon respondentia does not bear the loss of goods which perish by perils of the sea, when such goods have been transferred from the ship specified in the contract into a different one; unless it is proved that such transfer was caused by irresistible force.

2607. If the ship or cargo upon which a loan is made be totally lost, by a fortuitous event or irresistible force, within the time and place for which the risk extends, the money loaned cannot be recovered.

2608. Losses arising from defect in the thing, or caused by the act of the owners, master or charterer, are not considered fortuitous events, unless there is a special agreement to the contrary.

2609. In case of partial loss by shipwreck or other fortuitous event, the payment of the sum loaned is reduced to the value of the things held for it which are saved.

2610. Lenders upon bottomry or respondentia contribute to general average in discharge of the borrower.

They do not contribute to simple average or particular damages, unless there is an arrangement to that effect.

2611. If there be a loan and also an insurance upon the same ship or cargo, the lender is preferred to the insurer upon whatever is saved from the shipwreck, for the capital only of his loan.

2612. Bottomry and respondentia bonds made payable to order may be negotiated by indorsement. Such negotiation of them has the same effect and produces the same rights as the transfer of other negotiable instruments.

FINAL PROVISION .

2613. The laws in force at the time of the coming into force of this Code are abrogated in all cases:—

In which there is a provision herein having expressly or impliedly that effect;

In which such laws are contrary to or inconsistent with any provision herein contained;

In which express provision is herein made upon the particular matter to which such laws relate.

Except always that as regards transactions, matters and things anterior to the coming into force of this Code, and to which its provisions could not apply without having a retro-active effect, the provisions of law which without this Code would apply to such transactions, matters and things, remain in force and apply to them, and this Code applies to them only so far as it coincides with such provisions.

2614. The declaration that certain matters are regulated by the Code of Civil Procedure shall not have the effect of repealing any existing rule or of abolishing any mode of proceeding now in use until the said Code of Civil Procedure shall have become law.

2615. If in any article of this Code founded on the laws existing at the time of its promulgation, there be a difference between the English and French texts, that version shall

prevail which is most consistent with the provisions of the existing laws on which the article is founded ; and if there be any such difference in an article changing the existing laws, that version shall prevail which is most consistent with the intention of the article ; and the ordinary rules of legal interpretation shall apply in determining such intention.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



29 VIC., CHAP. 46.

An Act to amend the tenth chapter of the Consolidated Statutes for Lower Canada, respecting seditious and unlawful Associations and Oaths.

[Assented to 18th September, 1865.]

HER Majesty, by and with the advice and consent of the Preamble.
Legislative Council and Assembly of Canada, enacts as follows :—

1. The words "or Grand Master or Grand Lodge of Canada" are hereby added to and shall follow the words "Great Britain and Ireland" in the ninth section of the tenth chapter of the Consolidated Statutes for Lower Canada, intituled : *An Act respecting seditious and unlawful Associations and Oaths*, and shall be taken and read as part of the said section ; and this provision shall be construed and have effect as if it had been contained in and formed part of the ninth section of the Ordinance passed in the second year of Her Majesty's Reign, intituled : *An Ordinance for more effectually preventing the administering or taking of unlawful Oaths and for better preventing treasonable and seditious practices*.

Amendment
of Con. Stat.
L. C., c. 10,
sec. 9, as to
Free Masons.

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29 VIC., CHAP. 56.

An Act further to provide for the deepening of the Ship Channel between Montreal and Quebec.

[Assented to 18th September, 1865.]

Preamble.

WHEREAS it appears that there is a still subsisting agreement between the Provincial Government and the Harbour Commissioners of Montreal, whereby the latter have undertaken to complete the deepening of the Ship Channel through Lake St. Peter, and between Montreal and the tide water above Quebec; and that it is necessary that in order to enable them to complete their said engagement, the said Harbour Commissioners should be empowered to borrow a further sum of money: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Harbour Corporation may borrow £25,000 sterling to complete their engagement to deepen the channel from Quebec to Montreal.

1. For the purpose of enabling the corporation of the Harbour Commissioners of Montreal to carry out their agreement with the Provincial Government, to complete the ship channel in Lake St. Peter and in the River St. Lawrence, to the depth of not less than twenty feet at low water, and three hundred feet wide, throughout the said channel between Montreal and the tide water above Quebec, it shall be lawful for the said Corporation to borrow, either in this Province or elsewhere, at par, in such sums and for such number of years, and at such rates of interest, not exceeding eight per cent. per annum, as may be found expedient, any sum or sums of money not exceeding in the whole the sum of twenty-five thousand pounds sterling, and to expend the same for the said purpose, in such manner as may be best calculated to complete the ship channel aforesaid.

Out of what funds such loans shall be repaid.

2. The sums of money which may be borrowed under the last preceding section, together with the interest thereon, shall be paid out of the revenue arising from the dues, rates and penalties levied, and to be levied within the said Harbour of Montreal.

Machinery, &c., now in use not to be sold.

3. And whereas the steamers, dredges, vessels, machinery, tools and implements, constructed by the Province, and placed under control of the said Harbour Commissioners, and referred to in the first section of the twenty-seventh

and twenty-eighth Victoria, chapter twelve, are now worn out and replaced by others, it is therefore enacted, that all the steamers, dredging vessels, scows, machinery, tools, chains and other implements now in use, for the improvement of the channel to a depth of twenty feet at low water, (or when there are eleven feet on the flats of Lake St. Peter.) shall not be disposed of or sold by the Commissioners, until the said improved channel is completed.

4. Any provision in the Act passed in the Session held in the twenty-seventh and twenty-eighth years of Her Majesty's Reign, chapter twelve, which is inconsistent with this Act, is hereby repealed.

Inconsistent
enactments
repealed.

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29-30 VIC., CHAP. 20.

An Act to confirm the Title to Lands held in trust for certain of the Indians resident in this Province.

[Assented to 15th August, 1866.]

Preamble.

WHEREAS defects have been found to exist in respect to the mode of execution of Titles to certain Lands in Upper Canada, acquired by certain Tribes of Indians, or by the Crown in trust for or on behalf of Indians or of Indian Tribes, and it is expedient to quiet and confirm such Titles : Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

Certain deeds of lands in trust for Indians, confirmed, notwithstanding insufficient execution by married woman.

1. For and notwithstanding anything contained in any Act of the Parliament of the late Province of Upper Canada, or of the Parliament of the Province of Canada, heretofore made and passed, every Deed, Conveyance or Instrument purporting to be a Conveyance and Transfer of Lands in Upper Canada, to any Tribe of Indians, or to the Crown in trust for or on behalf of Indians or of Indian Tribes, or now held by the Crown on any such trust from any married woman seized of or entitled to such real estate, and made and executed before the passing of this Act, by such married woman, either jointly with or without her husband, or made and executed by any person constituted and authorized by power of attorney executed by such married woman, either jointly with or without her husband, to execute such Deed, Conveyance or Instrument in her name or on her behalf, shall be taken and deemed a valid Conveyance of the Land therein mentioned, and the execution thereof shall be taken and deemed to be valid and effectual and to have passed the estate of such married woman in the said land, although such Deed, Conveyance, Instrument or Power of Attorney was not executed by such married woman in accordance with the provisions of any Law or Statute in force in Upper Canada, in respect to the conveyance of real estate by married women, and although no certificate of the consent of such married woman to convey her estate in the said land, or an informal or insufficient certificate was endorsed upon such Deed, Conveyance or Instrument, whether executed by such married woman or by her Attorney, and although no certificate of such consent or an informal or insufficient certificate was endorsed upon such Power of Attorney.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



29-30 VIC., CHAP. 43.

An Act to amend the Law of Upper Canada relating to
Crown Debtors.

[Assented to 15th August, 1866.]

WHEREAS, by law in Upper Canada, the property, real and personal, of any person entering into any bond or covenant, or being indebted to the Crown, is bound by such bond or covenant from the date thereof, and from the incurring of such debt; and whereas it is desirable that such bonds, covenants and debts made or due by a subject to the Crown, should be placed on the same footing as if they were made or due from a subject to a subject: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

1. No bond, covenant, or other security, hereafter to be made or entered into, by any person, to Her Majesty, Her Heirs or Successors, or to any person on behalf of or in trust for Her Majesty, Her Heirs or Successors, shall bind the real or personal property of such person so making and entering into such bond, covenant, or other security, to any further, other or greater extent than if such bond, covenant or other security, had been made or entered into between subject and subject of Her Majesty.

Bonds, &c., to the Crown to bind only such property as would be bound in other cases.

2. The real or personal property of any debtor to Her Majesty, Her Heirs or Successors, or to any person in trust for or on behalf of Her Majesty, Her Heirs or Successors, for any debt hereafter contracted, shall be bound only to the same extent, and in the same manner, as the real or personal property of any debtor, where a debt is due from a subject of Her Majesty.

And so as to personal property of Crown debtors.

3. The Statute chapter five of the Consolidated Statutes for Upper Canada, shall be and the same is hereby repealed, except as to such securities as are mentioned in the first section of that Statute, which had been made or entered into before the passing of this Act.

Cap. 5, of Con. Stat. U. C. repealed. Exception.



29-30 VIC., CHAP. 45.

An Act for more effectually securing the liberty of the Subject.

[Assented to 15th August, 1866.]

Preamble.

WHEREAS the Writ of *habeas corpus* hath been found by experience to be an expeditious and effectual method of restoring any person to his liberty, who hath been unjustly deprived thereof; and whereas extending the remedy of such Writ, and enforcing obedience thereunto, and preventing delays in the execution thereof, will be advantageous to the public; and whereas the provisions made by an Act passed in England, in the thirty-first year of King Charles the Second, intituled: *An Act for the better securing the Liberty of the Subject, and for prevention of imprisonment beyond the seas*, only extend to cases of commitment or detainer for criminal or supposed criminal matter: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

In what cases
habeas corpus
ad subjicien-
dum may be
awarded, in
U. C. and by
whom in
vacation.

1. When any person shall be confined or restrained of his or her liberty (except persons imprisoned for debt, or by process in any civil suit, or by the judgment, conviction or decree of any Court of Record, Court of Oyer and Terminer or General Gaol Delivery, or Court of General Quarter Sessions of the Peace, or Recorder's Court, not being a Court wherein the Recorder shall sit alone without a jury), within Upper Canada, it shall and may be lawful for any of the Judges of either of the Superior Courts of Law or Equity in Upper Canada, and they are hereby required, upon complaint made to them by or on behalf of the person so confined or restrained, if it shall appear by affidavit or affirmation (in cases where by law an affirmation is allowed) that there is a probable and reasonable ground for such complaint, to award in vacation time a writ of *habeas corpus ad subjiciendum* under the seal of the Court wherein the application shall be made, directed to the person or persons in whose custody or power the party so confined or restrained shall be, returnable immediately before the person so awarding the same, or before any Judge in Chambers for the time being.

Return.

2. If the person or persons to whom any writ of *habeas corpus* shall be directed according to the provisions of this Act, upon service of such writ, either by the actual delivery thereof to him, her or them, or by leaving the same at the place where the party shall be confined or restrained, with any servant or agent of the person or persons so confining or restraining, shall wilfully neglect or refuse to make a return or pay obedience thereto, he, she, or they shall be deemed guilty of a contempt of the Court, under the seal whereof such writ shall have issued, and it shall be lawful to and for the Judge before whom such writ shall be returnable, or any Judge in Chambers, upon proof made by affidavit of wilful disobedience of the said writ, to issue a warrant under his hand and seal for the apprehending and bringing before him or some other Judge of the said Courts, of the person or persons so wilfully disobeying the said writ, in order to his, her or their being bound to the Queen's Majesty, with two sufficient sureties, in such sum as in the warrant shall be expressed, with the condition to appear in the Court under the seal of which the writ issued, at a day in the same or any ensuing term to be mentioned in the said warrant, to answer the matter of contempt with which he, she or they are charged; and in case of neglect or refusal to become bound as aforesaid, it shall be lawful for such Judge or Court to commit such person or persons so neglecting or refusing, to the common gaol of the county wherein such person resides, or may be found, there to remain until he, she or they shall have become bound as aforesaid, or shall be discharged by order of the Court in term time, or by order of a Judge in vacation; and the recognizance or recognizances to be taken thereupon shall be returned and filed in the same Court, and shall continue in force until the matter of such contempt shall have been heard and determined, unless sooner ordered by the court to be discharged; provided that if such writ shall be awarded so late in the vacation by any one of the said Judges, that in his opinion obedience thereto cannot be conveniently paid during such vacation, the same shall and may at his discretion, be made returnable in the Court wherein the application is made, at a day certain in the next term; and the said Court shall and may proceed thereupon, and award process of contempt in case of disobedience thereto, in like manner as upon disobedience to any writ originally awarded by the said Court; and if such writ shall be awarded in term time so late that, in the judgment of the Court, obedience thereto cannot be conveniently paid during such term, the same shall and may, at the discretion of the said Court, be made returnable at a day certain in the then next vacation, before a Judge in Chambers, who shall and may proceed thereupon in such manner as by this Act is directed concerning writs issuing in and made returnable during the vacation.

Proceedings
in case of dis-
obedience to
the writ.

Warrant for
contempt.

Proviso: if
writ be issued
late in vaca-
tion.

If late in term,
may be re-
turnable in
vacation.

Proceedings for inquiring into the truth of the matters alleged in the return, before Judge before whom the writ is returnable.

Bail in certain cases.

Judge to transmit the writ and return to the Court, &c.

If the writ be awarded by the Court.

Certiorari to bring proceedings and papers before the Court for examination.

3. In all cases provided for by this Act, although the return to any writ of *habeas corpus* shall be good and sufficient in law, it shall be lawful for the Court or for any judge before whom such writ may be returnable, to proceed to examine into the truth of the facts set forth in such return, by affidavit or by affirmation (in cases where an affirmation is allowed by law), and to do therein as to justice shall appertain; and if upon such return it shall appear doubtful on such examination, whether the material facts set forth in the said return, or any of them, be true or not, in such case it shall and may be lawful for the said Judge or the Court to let to bail the said person so confined or restrained, upon his or her entering into a recognizance, with one or more sureties; or in case of infancy or coverture, or other disability, upon security by recognizance in a reasonable sum to appear in the Court wherein the application is made, upon a day certain in the term following, and so from day to day as the Court shall require, and to abide such order as the Court shall make in and concerning the premises; and any Judge before whom such writ shall be returned, shall transmit into the same Court the said writ and return, together with such recognizance, affidavits and affirmations, and thereupon it shall and may be lawful for the said Court to proceed to examine into the truth of the facts set forth in the return, in a summary way by affidavit or affirmation (in cases where by law affirmation is allowed), and to order and determine touching the discharging, bailing or remanding the party.

4. The like proceeding may be had in the Court for controverting the truth of the return to any such writ of *habeas corpus* awarded as aforesaid, although such writ shall be awarded by the said Court itself, or be returnable therein.

5. In all cases, in which a writ of *habeas corpus* shall be issued under the authority of this Act or of the said Act of the thirty-first year of the reign of King Charles the Second or otherwise, it shall and may be lawful for the judge or court ordering the issuing of such writ or for the judge before whom such writ shall be returnable, either in term time or vacation, to direct the issuing of a writ of *certiorari* out of the court from which such writ of *habeas corpus* shall have issued, directed to the person or persons by whom or by whose authority any such person shall be confined or restrained of his or her liberty, or other person having the custody or control thereof, requiring him to certify and return to any Judge in Chambers or to the Court as by the said writ shall be provided, all and singular the evidence, depositions, convictions, and all proceedings had or taken, touching or concerning such confinement or restraint of liberty, to the end that the same may be viewed

and considered by such judge or court. and to the end that the sufficiency thereof to warrant such confinement or restraint, may be determined by such judge or court.

6. In case any person confined or restrained of his or her liberty, as aforesaid, shall be brought before the court in term time upon a writ of *habeas corpus*, and shall be remanded to custody again upon the original order or warrant of commitment, or by virtue of any warrant, order or rule of such court, it shall and may be lawful for such person to appeal from the decision or judgment of the the said Court, to the Court of Error and Appeal; and it shall be the duty of the Clerk of the Court whose decision or judgment shall be appealed from, upon notice to be given by or on behalf of the person so remanded to custody, to certify under the seal of the court, the writ of *habeas corpus*, the return thereto, and all and singular the affidavits, depositions, evidence, conviction and other proceedings returned to or had before the said court, unto the Court of Error and Appeal; and the said Court of Error and Appeal shall thereupon hear and determine the said appeal without any formal pleadings whatever; and if the said Court of Error and Appeal shall adjudge or determine that such confinement or restraint is illegal, such court shall certify the same, under the seal of the said court, to the person or persons having the custody or charge of the person so confined or restrained, and shall order his immediate discharge, and he shall be discharged accordingly.

Appeal from remandment.

Certifying proceedings to Court of Appeal.

Court may order discharge.

7. The several provisions made in this Act, touching the making writs of *habeas corpus* issued in time of vacation, returnable into the said courts, or for making such writs awarded in term time, returnable in vacation, as the cases may respectively happen, and also for making wilful disobedience thereto a contempt of the court, and for issuing warrants to apprehend and bring before the said courts, judge or any of them, any person or persons wilfully disobeying any such writ, and in all cases of neglect or refusal to become bound as aforesaid, for committing the person or persons so neglecting or refusing to gaol, as aforesaid, respecting the recognizances to be taken as aforesaid, and the proceeding or proceedings thereon.—shall extend to all writs of *habeas corpus* awarded in pursuance of the said Act passed in England in the thirty-first year of the reign of King Charles the Second, or otherwise, in as ample and beneficial a manner as if such writs and the said cases arising thereon had been hereinbefore specially named and provided for respectively.

Certain provisions of this Act to extend to cases where the writ issues under the English Act.

8. The said Court of Error and Appeal may from time to time and as often as it shall see occasion, make such rules of practice in reference to the proceedings on Writs of

Rules of practice may be made.

habeas corpus as to the said court may seem necessary and expedient.

Act not not to
affect c. 1 of
this Session.

9. Nothing in this Act shall be held to impair or interfere with an Act passed during this present Session of Parliament, intituled: *An Act to authorize the apprehension and detention until the eighth day of June, one thousand eight hundred and sixty-seven, of such persons as shall be suspected of committing acts of hostility or conspiring against Her Majesty's person and Government*, but this Act shall be read therewith and as being subject thereto.

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29-30 VIC., CHAP. 51.

An Act respecting the Municipal Institutions of Upper
Canada.

[Assented to 15th August, 1866.]

HER Majesty, by and with the advice and consent of the Preamble.
Legislative Council and Assembly of Canada, enacts as
follows:—

* * * * *

409. Any Justice of the Peace of the County may direct by warrant, in writing under his hand and seal, the confinement in a lock-up-house within his County, for a period not exceeding two days, of any person charged on oath with a criminal offence, whom it may be necessary to detain until examined and either dismissed or fully committed for trial to the common gaol, and until such person can be conveyed to such gaol; also the confinement in such lock-up-house, not exceeding twenty-four hours, of any person found in a public street or highway in a state of intoxication, or any person convicted of desecrating the Sabbath, and generally may commit to a lock-up-house instead of the common gaol or other house of correction, any person convicted on view of the Justice, or summarily convicted before any Justice or Justices of the Peace of any offence cognizable by him or them, and liable to imprisonment therefor under any Statute or Municipal by-law.

Who liable to
confinement
in lock up
house, &c.

* * * * *

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Excellent Majesty.



29-30 VIC., CHAP. 58.

An Act to extend the powers of the Trinity House of Quebec.

[Assented to 15th August, 1866.]

Preamble.

WHEREAS it is expedient to extend and explain the powers and duties of the Trinity House of Quebec: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

Masters of vessels wrecked, &c., to inform the Harbour Master, within a certain time after arrival.

1. Every master or person in charge of a sea-going vessel, which shall be wrecked or suffer damage by collision, or by being stranded or by foundering or by loss of spars, within the Gulf or River St. Lawrence, and being within the limits of the port of Quebec, shall in person inform the Harbour Master of Quebec thereof, within four days after the arrival of such master or other person in the harbour of Quebec, if such casualty occurs outside the harbour of Quebec, or within two days if such accident occurs within the said harbour, under a penalty not exceeding forty dollars.

Master to answer questions.

2. It shall be lawful for the Harbour Master to submit questions in writing to such master or person, touching such casualty, or to summon such master or person to appear before him to be examined regarding the same; and in default of so answering such questions in writing, or attending when summoned as aforesaid, such master or person in charge shall incur a penalty not exceeding forty dollars for every day of such neglect or refusal.

Penalty for refusal.

Harbour Master may compel attendance and examine on oath.

3. The said Harbour Master shall have power to administer an oath to such master or person, and to compel his attendance in the same manner that the Trinity House of Quebec can compel the attendance of witnesses; and the said Harbour Master may, if he considers it advisable, not only submit such questions, but also examine verbally such master or person; and he is also empowered to summon before him and examine on oath, as a witness, any other person or persons to give evidence in such investigation, and to compel his or their attendance, as aforesaid.

4. Save as to the power to prescribe the limits of the ballast ground, and the power to prevent injury to and encroachments on the beaches of the rivers St. Lawrence, Cap Rouge, Montmorency, St. Charles and Beauport, conveyed to the Quebec Harbour Commission by the Acts twenty-second Victoria, chapter thirty-two, and twenty-fifth Victoria, chapter forty-six, the powers of the Trinity House of Quebec are not altered, restrained, or repealed, in any way by the said last mentioned Acts.

How far only the powers of the Trinity House are altered by certain Acts.

5. In all cases where anchors, chains or other effects have been dropped or lost within the limits of the port of Quebec, and when the same shall not have been claimed within twelve months from the date of their being so dropped or lost, the said anchors, chains or other effects, shall, at the expiration of such time be considered as unclaimed property, and shall be dealt with accordingly.

As to anchors, &c., dropped in the Port of Quebec and unclaimed.

6. The penalties hereinbefore mentioned shall be recovered before the Trinity House of Quebec, with costs; and the said Trinity House shall have the same power to enforce this Act as it has now to enforce its orders and by-laws.

Recovery of penalties and enforcing Act.

7. All laws, by-laws or portions of by-laws, inconsistent with the above enactments, are hereby repealed.

Repealing clause.

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ACTS OF NOVA SCOTIA.

REVISED STATUTES (THIRD SERIES).

CHAP. 1.

OF THE PROMULGATION AND CONSTRUCTION OF STATUTES.

All Acts
public.

1. All Acts shall be deemed public, and may be declared on, and given in evidence without being specially pleaded.

Date of com-
mencement.

2. The clerk of the Legislative Council shall endorse on every Act the date of its passage, and the endorsement shall be held part of the Act, and shall be the date of its commencement, unless otherwise provided.

Publication,
how evi-
denced.

3. Printed copies of Acts published in the *Royal Gazette* newspaper, in Halifax, or purporting to be published by the Queen's Printer for the province, shall be evidence of such Acts.

Repeal or al-
teration the
same session.

4. Any Act may be altered or repealed during the session in which it shall have passed.

Revived by
express enact-
ment only.

5. No Act nor any portion of an Act that shall be repealed, shall be revived, unless by express enactment.

Proceedings
under old
Acts con-
tinued under
new.

6. Where an Act shall be repealed in whole or in part, and other provisions substituted, all persons acting under the old law shall continue to act as if appointed under the new law, until others are appointed in their stead, and all proceedings taken under the old law shall be taken up and continued under the new, when not inconsistent therewith; and all penalties may be recovered and proceedings had, in relation to matters which have happened before the repeal, in the same manner as if the law were still in force.

Construction
of Acts;
meaning of

7. In the construction of Acts, the following rules shall be observed, unless otherwise expressly provided for, or

such construction would be inconsistent with the manifest intention of the Legislature, or repugnant to the context, that is to say:—

The words "Queen" or "Her Majesty" shall include Her Majesty, her heirs or successors.

"Governor" and "lieutenant governor" shall include the governor, lieutenant governor or commander-in-chief, or person administering the government of the province for the time being.

"Sessions" shall denote the court of general or quarter sessions of the peace for the county or district, and "special session" shall denote a special sessions of the peace for the county or district.

"Justice" shall signify justice of the peace.

"Prothonotary" shall include deputy prothonotary.

"Clerk of the crown" shall include deputy clerk of the crown.

"Jail" shall mean county jail, and where imprisonment is prescribed it shall mean imprisonment in the jail or other building within the county in which debtors may be legally imprisoned.

"Warrant" shall signify warrant under hand and seal.

"Grantor" may be construed as including every person from whom any freehold estate or interest passes by deed; and "grantee" as including every person to whom any such estate or interest passes in like manner.

"Land," "lands," or "real estate," shall include lands, tenements, and hereditaments, and all rights thereto and interest therein.

"Goods" shall mean personal property.

"Issue," as applied to the descent of estates, shall be construed to include all lawful, lineal descendants of the ancestor.

"Representatives" shall mean executors and administrators.

"Wills" shall include codicils.

"Month" shall signify a calendar month, and "year" a calendar year; and "year" alone shall be equivalent to the expression "year of our Lord."

"Oath" shall include affirmations in cases where by law an affirmation may be substituted for an oath; and in the like cases the word "sworn" shall include the word "affirm."

"Person" may extend to bodies politic and corporate as well as to individuals.

"Folio" shall mean ninety words.

"Sureties" shall mean sufficient sureties, and "security" shall mean sufficient security; and where these words are used one person shall be sufficient therefor, unless otherwise expressly required.

Every word importing the singular number only may extend to several persons or things as well as to one person or thing; and every word importing the plural number

only may extend to one person or thing as well as to several persons or things; and every word importing the masculine gender only may extend to females as well as to males.

All words purporting to give a joint authority to three or more persons, shall be construed as giving authority to a majority of such persons.

Penalties,
how recover-
ed and appro-
priated.

8. Where a penalty shall be imposed, and no particular mode be prescribed for the recovery thereof, the same may be recovered in the name of any person who will sue therefor, in the same manner, and with the like costs, as if it were a private debt due such person, the nature of the offence being briefly stated in the summons, and where no particular mode of applying any penalty shall be prescribed, the same shall be paid, one-half to the person who shall have sued therefor, and the other half to the overseers of the poor for the place where the offence was committed, for the use of the poor thereof; and where a penalty, or part thereof, shall be for the use of the poor, it shall be paid to the overseers of the poor for the place where the offence was committed, for the use of the poor thereof.

Appeals.

The imposition of a penalty shall not relieve any person from liability to answer for special damages to a party injured. Appeals to the Supreme Court shall be allowed by justices of the peace, from every judgment given by them in all cases tried before them, in the same manner and on the same terms as are provided in civil suits, except where otherwise specially provided.

All penalties and forfeitures, not exceeding forty dollars, may be sued for and recovered before any two justices of the peace; but if incurred within the city of Halifax, before the mayor's court.

Prosecutions for such penalties or forfeitures may be in the name of any person, or of any corporate body.

Authority to
fill vacancies.

9. Where authority to make appointments to public situations is conferred, it shall include the power to fill up vacancies caused by death, resignation, removal, or refusal to act.

By-laws,
power to
make and
alter.

10. Where power to make by-laws, regulations, rules or orders is conferred, it shall include the power to alter or revoke the same, and make others. No by-law shall be enforced if repugnant to law.

County
charges how
recovered.

11. When it is declared that any matter is to form a county charge, the expense shall be presented, confirmed, assessed, levied and collected with and by the same means as by law directed with regard to other moneys for county purposes.

12. Where forms are prescribed, slight deviations there- Forms.
from, not affecting the substance or calculated to mislead,
shall not vitiate them.

13. If the day upon which an act is to be done shall fall Sunday, &c.
on a Sunday, Christmas Day, or Good Friday, the same
shall be performed on the day following.

14. Justices of the peace may administer all oaths, with Justices to
administer
oaths.
regard to the taking of which no particular directions are
given.

15. Quakers or Moravians, where an oath is prescribed, Quakers, &c.,
how sworn.
may instead of taking the same, solemnly affirm in manner
used in their religion; and such affirmations shall have the
like effect, and render the parties taking them liable to the
like penalties, if false, as attach to an oath.

16. When bonds are required to be given by a public Bonds of pub-
lic officers.
officer, they shall be taken in Her Majesty's name when not
otherwise directed.

17. Sureties to any such bond may at any time give to Withdrawal
of sureties.
the Provincial Secretary notice of their desire to withdraw
from liability thereunder, and in such case the liability of
the sureties for any act committed or dereliction of duty
after the expiration of three months from the receipt of such
notice shall cease. Principals shall in such cases be re-
quired to furnish new security, in the same manner as if
bonds had not been previously executed.

18. All officers now appointed or hereafter to be appointed Officers ap-
pointed dur-
ing pleasure.
by the governor, whether by commission or otherwise,
shall remain in office during pleasure only, unless other-
wise expressed in their commissions or appointments.



CHAP. 28.

OF NAVAL PROPERTY.

Property held
for the naval
service to be
vested in lord
high admiral
or commis-
sioners for
time being.

1. All messuages, lands, tenements, and hereditaments, erections, buildings, and property whatever which have been conveyed to or are vested in any person or persons, or are held or in any manner occupied by or in the name of any person or persons in trust for Her Majesty or her royal predecessors, and her or their heirs or successors for the use of the naval service of the said United Kingdom, or of any of the departments of or belonging to the said naval service by whatever mode of conveyance or by whatever title or for whatever estate or interest therein, the same shall have been conveyed or be vested, held or occupied, together with the rights, members, easements, and appurtenances to the same respectively belonging, shall be and become and remain and continue vested in the lord high admiral of the said United Kingdom, or the commissioners for executing the office of lord high admiral aforesaid for the time being, according to the respective nature and quality of the said messuages, lands, tenements and hereditaments, and the several estates and interests of and in the same respectively, in trust for Her Majesty, her heirs and successors, for the public service.

Also lands
subsequently
purchased.

2. From and after the purchase and conveyance, grant or demise thereof, all other messuages, lands, tenements, and hereditaments which shall at any time or times hereafter be purchased, taken, held, or occupied by the lord high admiral or the commissioners for executing the office of lord high admiral aforesaid for the time being, or by any person or persons by his or their order for the naval service of the said United Kingdom, or of any of the departments of or belonging to the said naval service, and all erections and buildings which shall then or may be thereafter erected or built thereon, with the rights, members, easements and appurtenances to the same respectively belonging, shall in like manner be and become and remain and continue vested in the lord high admiral of the said United Kingdom, or the commissioners for executing the office of lord high admiral aforesaid for the time being and his or their successors in the said office, according to the respective nature and quality of the said messuages, lands, tenements and hereditaments, and the several estates and interests of and in the same respectively, in trust as aforesaid.

3. Upon the death, resignation or removal of the present commissioners for executing the office of lord high admiral of the said United Kingdom, or of any of them, or of any future such commissioners, or of any lord high admiral of the said United Kingdom, all such messuages, lands, tenements, and hereditaments respectively shall become vested in and be held by the succeeding commissioners for executing the office of lord high admiral aforesaid, or the lord high admiral aforesaid, as the case may be, and so in perpetual succession, according to the respective nature and quality of the said messuages, lands, tenements, and hereditaments, and the several estates and interests of and in the same respectively, in trust as aforesaid.

In case of death, removal, &c., to be vested in successors.

4. In all deeds, conveyances, leases, contracts, and other instruments touching any estate, property, matter, or thing relating to the naval service of the said United Kingdom, or to any department under the control of the commissioners for executing the office of lord high admiral aforesaid, or whereto they or any of them shall be parties, it shall be sufficient to describe them generally by the style and title of "the commissioners for executing the office of lord high admiral of the United Kingdom of Great Britain and Ireland," without expressing their names, and all such deeds, conveyances, leases, contracts, and other instruments, wherein the said commissioners shall be so described, and the execution or signature thereof by any two of them shall be as valid and effectual to all intents and purposes as if they or any of them had been expressly named therein and had executed or signed the same.

Titles of commissioners to be used in deeds, &c.

5. It shall and may be lawful for the commissioners for executing the office of lord high admiral aforesaid for the time being, or any two or more of them, or the lord high admiral aforesaid, to sell, exchange, or in any manner dispose of or let, or demise any of the messuages, lands, tenements and hereditaments respectively which shall be vested in them under or by virtue of this chapter, with their respective appurtenances, either by public auction or private contract, and in due form of law to convey, surrender, assign, or make over, or to grant or demise the same respectively, as the case may require, to any person or persons who shall be willing to purchase or take the same respectively, and also to do any other act, matter or thing in relation to any such messuages, lands, tenements, and hereditaments which they or he shall deem beneficial for the public service in relation thereto or for the better management thereof, which might be done by any person or persons having a like interest in any such messuages, lands, tenements, or hereditaments.

Powers of commissioners, &c., to sell, lease, &c.

6. It shall be lawful for the said commissioners for executing the office of lord high admiral aforesaid for the time

Commissioners, &c., may prosecute and

defend ac-
tions.

Action not to
abate on
death.

May recover
and be liable
to pay costs.

being, or the lord high admiral aforesaid for the time being, and they are hereby authorized and empowered, to bring, prosecute, and maintain any action, suit, or other proceeding at law or in equity, for recovering possession of any messuages, lands, tenements, or hereditaments, by this chapter vested in them or him as aforesaid, and to distrain or sue for any arrears of rent which shall have or shall become due for or in respect thereof, under any demise from the said commissioners or lord high admiral, or any person or persons on their or his behalf, or on behalf of Her Majesty. and also to bring, prosecute, or maintain, or to defend any other action or suit in respect of or in relation to the said messuages, lands, tenements or hereditaments, or any trespass or encroachment committed thereon, or damage or injury done thereto; and that in every such action or suit the said commissioners shall be called "the commissioners for executing the office of lord high admiral of Great Britain and Ireland," without naming them; and no such action or suit shall abate, by the death, resignation, or removal of such commissioners, or any of them, or of such lord high admiral, any law, custom, or usage to the contrary notwithstanding; and the said commissioners or lord high admiral shall be entitled to recover costs for and on behalf of Her Majesty where judgment shall be given for the Crown, and shall be liable to pay costs where judgment shall be given against the Crown, in any such action, suit or other proceeding in like manner, and subject to the same rules and provisions as though such action, suit, or other proceeding had been had between subject and subject.

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CHAP. 32.

OF AN ELECTRIC TELEGRAPH FOR MILITARY PURPOSES.

1. It shall be lawful for Her Majesty the Queen, or any officer duly authorized by her, to cause to be built and established a line of electric telegraph, to commence in the city of Halifax and extend thence through and along the province of Nova Scotia till it shall reach the boundary line dividing the said province from the province of New Brunswick.

Building of line of telegraph authorised.

2. Such line may be built along the side of any public highway, street or railway, either above ground or under, provided it does not interfere with the right of travelling thereon, or the posts and wires of the Nova Scotia Electric Telegraph Company.

Where to be placed.

3. All powers, advantages and facilities provided or given by the Act to incorporate the Nova Scotia Electric Telegraph Company, and all Acts in amendment thereof, and all privileges enjoyed by that company for building and maintaining lines of electric telegraph in the province of Nova Scotia, so far as the same are or may be applicable or required for building and maintaining a line from Halifax to the boundary of New Brunswick, are hereby given and granted to Her Majesty or any officer duly authorized by her in that behalf, and all persons acting under him for building and maintaining said line, subject, nevertheless, to all conditions and restrictions imposed upon such company.

Privileges of N. S. E. Telegraph given to Her Majesty.

4. All remedies, fines, pains, penalties, and forfeitures provided by the Act for incorporating the Nova Scotia Electric Telegraph Company, and the Acts in amendment thereof, passed, or to be passed during the present session of the Legislature, and all Acts passed for the protection of electric telegraphs, for injuring, interrupting, destroying, obstructing or intermeddling with the telegraph line during or after erection, shall apply and may be enforced in the name of Her Majesty by information or indictment against any person or persons injuring, destroying, obstructing or intermeddling with the line hereby authorized to be constructed.

All fines, penalties, &c., for protection of telegraphs, &c., to apply to this line.

To be used for
Imperial and
military pur-
poses.

5. The line hereby authorized to be constructed shall be used for public, military and Imperial purposes, and for no other services whatsoever.

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Excellent Majesty.



CHAP. 82.

OF BILLS OF EXCHANGE AND PROMISSORY NOTES.

* * * * *

2. A promissory note shall be assignable or endorsable in the same manner as an inland bill of exchange, and the payee or endorsee thereof, or the holder, where the note is payable to bearer, may bring an action thereon in his own name.

Promissory
notes negotia-
ble : who may
sue thereon.

* * * * *

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Excellent Majesty.



CHAP. 85.

OF THE REGULATION AND INSPECTION OF PROVISIONS, 'LUMBER, FUEL, AND OTHER MERCHANDIZE.

* * * * *

BREAD.

- 44.** All bread intended for sale shall be marked in Roman characters with the initial letters of the grain of the flour or meal of which it is made, and with the initials of the christian and surname of the baker, and shall be also marked with the weight thereof.
- 45.** All bread intended for sale shall be made to the following weights respectively, and no other, viz., four pounds, two pounds, one pound, and eight ounces.
- 46.** No person shall sell any bread that shall not be marked in accordance with the forty-fourth section; and any person violating the same, by having in his possession, selling or offering for sale any bread not duly marked, shall forfeit for every loaf not duly marked, not less than twenty cents nor more than one dollar.
- 47.** Every person selling bread shall keep a pair of scales and weights, in order that the purchasers of such bread may, if they require, have the same weighed.
- 48.** Any justice of the peace or constable authorized by the warrant of a justice, or the clerk of the market, may visit the premises wherein bread is made or sold, and may search for and weigh all bread therein; and if any bread be found therein under the prescribed weight or not marked as herein directed, the same shall be seized, and on proof of the fact before a justice, it shall be disposed of to poor persons under the direction of such justice.
- 49.** If any person shall obstruct or oppose the officer in making such search or seizure, he shall forfeit not less than four dollars nor more than eight dollars.
- 50.** Any person selling bread deficient in weight, and the offence being proved by the same being weighed within

twenty-four hours after baking, before a justice, shall, unless the deficiency appear to have been occasioned by some unavoidable accident, forfeit not less than ten cents, nor more than fifty cents for every half ounce deficient.

51. If any servant or journeyman in the employ of a baker shall offend against these provisions, he shall forfeit not less than four nor more than eight dollars, and in default of payment he shall be imprisoned not less than seven nor more than fourteen days.

Fine for servants or journeymen offending.

52. If any baker shall pay any of the foregoing penalties in consequence of the wilful neglect or default of his servant or journeyman, any justice of the peace, upon the application of such baker, may cause the offender to be brought before him and order him to pay a reasonable sum by way of recompense, and if he shall not comply with such order, may commit him to jail for a period not exceeding a month.

Baker may be relieved from fines incurred by the wilful misconduct of servants.

53. These provisions shall not apply to loaves made to order and rasped by the desire of the customer, nor to loaves or cakes sold, weighing less than half a pound.

Loaves made to order, or weighing less than half a pound, excepted.

54. Prosecutions for breach of any such provisions shall be commenced within three days after the offence committed.

Limitation of suits.

* * * * *

TARE ON SUGAR.

73. The tare to be allowed on the sale of brown or raw sugar shall upon every barrel be twenty-two pounds, and upon every hogshead or other package of the weight of eighteen hundred pounds or less, twelve pounds for every hundred pounds of gross weight, and upon every hogshead or other package of such sugar above the weight of eighteen hundred pounds, the tare shall be ten pounds for every hundred pounds of gross weight.

Tare on sugar, how ascertained.

74. Any person who shall not allow the full tare as herein prescribed shall forfeit fifty cents for every hundred weight of the sugar upon which such full tare shall not be allowed.

Fine for not allowing tare on sale.

COAL AND SALT.

75. Coals sold from shipboard by retail shall be sold by the ton weight of two thousand two hundred and forty pounds airdupois and its subdivisions.

Coals, how sold.

Coal and salt
to be measur-
ed.

76. All coal or salt sold from shipboard by retail in this province shall be weighed or measured by officers appointed for the purpose.

Liable to for-
feiture if de-
livered with-
out being
measured.

77. If such coal or salt shall be delivered to any truckman or other person, without having been weighed or measured according to the two last sections, the seller shall forfeit the same or the value thereof to the use of the poor.

Fees of mea-
surers.

78. The measurers of coal shall receive from the seller eight and one half cents for every ton; and measurers of salt shall receive three and one half cents for every hogshead which they shall respectively measure.

Fine on mea-
surers for mis-
conduct.

79. If any measurer of coal or salt shall undertake to attend the admeasurement of coal or salt from more than one vessel at the same time, he shall forfeit a sum not exceeding eight dollars for each offence; and for any neglect or misconduct other than the offence last mentioned a sum not exceeding twelve dollars.

Penalty for
misrepresen-
tation of kind
of coal.

80. Every person who shall wilfully sell or dispose of any coal within this province under any name or designation other than that of the mine or locality from whence the same may have been obtained, shall forfeit a penalty of forty dollars.

Shipmaster
shall exhibit
certificate of
proprietor
when request-
ed.

81. Any shipmaster or other person bringing coal to any port in this province from any mine therein, shall exhibit on demand thereof to any person desirous of purchasing coal a certificate from the proprietor or shipping officer of the mine from whence such coal has been shipped, stating the name or locality or other known designation of such coal and the date of shipment thereof, which certificate the proprietor or shipping officer is hereby required to give to the shipmaster at the time of the shipment of such coal.

Proprietor,
&c., giving
false certifi-
cate; penalty.

82. Any proprietor or shipping officer refusing to give such certificate or giving a false certificate, or any shipmaster or seller of coal refusing to exhibit such certificate on demand, or exhibiting a false certificate, shall respectively forfeit twenty dollars.

Certificate
delivered to
collector.

83. Every such certificate shall on the discharge of the cargo of coal to which it refers be delivered up by the holder thereof to the collector of Customs of the port, to be placed upon the file in his office.

* * * * *

HAY.

Hay, how
weighed;
weighers'
fees.

88. Hay may be weighed in scales or by steel-yards duly stamped by the clerk of the market, and weighers shall re-

ceive at the rate of two cents for every hundred weight of hay weighed by them, and seven cents for every mile they shall be required to travel if the distance shall exceed one mile.

CORDWOOD.

89. Every stick of cordwood intended for retail shall measure four feet in length, accounting half the scarf, and be sound hardwood, and every cord shall be of the full length of eight feet and four feet high and piled close.

Cordwood to be retail; its quality and dimensions.

90. All cordwood sold from shipboard shall be surveyed and measured before sale by an officer appointed for the purpose, who shall receive seven cents from the seller for every cord by him surveyed and measured.

Cordwood from shipboard to be measured; measurer's fees.

91. Persons selling such cordwood without having the same surveyed and measured under the last preceding section shall forfeit the same or the value thereof.

Fine for selling without being measured.

92. All sticks of such wood not of the requisite length shall be rejected by the measurer.

Undimensioned wood to be rejected.

93. Persons offering any cordwood for sale shall pile all the crooked and rotten sticks, if any, separately, and if on the survey the measurer shall find any rotten wood or any crooked sticks in the cord which shall prevent the same being piled close such crooked or rotten sticks shall be rejected, and the deficiency in the cord made good before sale thereof.

Provisions in case of rotten or crooked wood.

94. If any measurer shall violate his duty, he shall forfeit a sum not exceeding four dollars for every offence.

Fine for measurer violating his duty.

LUMBER.

95. In the survey of boards there shall be four qualities, viz. :—

Boards to be of four qualities—their description.

First.—Clear boards at least one inch in thickness.

Second.—Merchantable boards of first quality, sawed of equal thickness throughout, and when not hardwood, squared at the edges with a saw; to be free from rots, waness, worm holes and auger holes; at least seven-eighths of an inch in thickness, and containing not less than ten superficial feet.

Third.—Merchantable boards of second quality, of the same dimensions, and free from rots, shakes and worm holes; and

Fourth.—Refuse, to include all other descriptions of boards.

Dimension
deals defined.

96. All dimension deals shall not be not less than twelve feet long, nine, eleven and twelve inches wide and three inches thick respectively, having an allowance of from one to two inches in the length, from a quarter to half an inch in the breadth, and from one-eighth to a quarter of an inch in the thickness; they shall be smooth and fair, of equal width and thickness throughout, butted at both ends with a saw free from rots, sap, stains, large knots, rents, shakes, worm and auger holes, and shall have the stubshot sawn off.

Plank for ex-
portation;
their size and
quality.

97. All plank intended for exportation, except hardwood plank, shall be from ten to twenty feet in length, nine inches in breadth, and three inches and one-eighth in thickness, and of the same quality as dimension deals.

Ton timber
for exporta-
tion; its size
and quality.

98. All ton timber for exportation shall be straight lined and squared, and with not more than one inch of wane on the edges, without offsets or joints, square, butted at both ends, and free from all marks of scoring, rots, splits or worm holes which may be detrimental to the same.

Merchantable
spruce, pine
and hardwood
timber; the
size and
quality.

99. Merchantable spruce or pine timber shall be sixteen feet, and hardwood timber ten feet in length at least, and at least ten inches square; and where it does not exceed sixteen feet in length, the ends shall be of equal size, and all ton timber shall be measured by the girth, one quarter part thereof to be taken as the side of the square.

Shingles to be
of three qual-
ities; their
descriptions.

100. In the survey of shingles there shall be three qualities, viz.:—

No. 1.—Pine or cedar shingles not less than eighteen inches long, four inches wide, and three-eighths of an inch thick at the but, and clear of sap, slash, shakes, twists and worm holes.

No. 2.—Pine, cedar, spruce or hemlock shingles not less than sixteen inches long, three and a-half inches wide, and from a quarter to a quarter and a sixteenth of an inch thick, to be free from sap, slash, shakes and worm holes; and

No. 3.—Refuse, to include all other descriptions of shingles.

No. 1 and 2 shingles shall be put up in bundles not less than twenty-five tiers or courses twenty inches wide, four bundles to be considered as a thousand.

All shipping shingles for exportation shall be half an inch thick at the but and extend the same thickness three-fourths of the length, and be shaved from thence to the point, and from four to four and a-half inches wide.

Clapboards;
their length
and descrip-
tion.

101. Clapboards shall be four feet four inches long, five inches wide, and half an inch thick at the back.

Lathwood;
description of
and how mea-
sured.

102. Lathwood shall be of fresh growth, straight rift, free from bark, heart and knots, and measured by the cord.

103. Hogshead staves shall be forty-two inches long, from three and a half to five and a half inches wide, and three quarters of an inch thick on the thinnest edge, and not more than one inch on the back. Staves: their description and mode of calculation.

Barrel staves shall be thirty-two inches long and half an inch thick on the thinnest edge, and not exceeding three quarters of an inch on the back; to be of good rift, fairly split, free from twists, knot holes, rotten knots, worm holes and shakes, and shall be calculated by the tale of ten hundred to the thousand.

104. Upon any contract or bargain for a quantity of timber or lumber for exportation, the same shall be understood to mean that which is hereinbefore described, and the purchaser shall not be obliged to receive any other unless under a special written agreement specifying what he actually is to receive. Timber, lumber and shingles purchased for exportation shall be as respectively described.

105. The surveyors of lumber shall when required diligently examine and survey every description of lumber described in any of the preceding sections whether for sale or exportation in their respective districts, and shall mark the same as directed by this section at the time of the survey; but if it shall have been previously surveyed in the province, he shall only re-survey and mark anew the same when he shall have any doubt of the measure; and on every survey he shall furnish the seller and the purchaser each with a certificate thereof specifying the quality and dimensions, and on every stick of ton timber shall mark in figures the contents in cubic feet, the initials of his name, and the private mark of the purchaser; and on all deals and plank shall mark in lead, on the ends, the length, breadth, thickness and superficial contents and his own private mark; and on all boards the superficial contents and his private mark. Duty of lumber measurers on a survey.

106. The surveyors of lumber shall receive the following fees, viz., for measuring and surveying all ton timber, five cents per ton, together with seven cents for every mile they shall necessarily travel in coming to the place of the survey; Fees of surveyors of lumber.

For every thousand superficial feet of deals, plank, scantlings and boards respectively, fifteen cents for surveying and five cents for marking; and for viewing only where the same shall have been previously surveyed and the surveyor shall doubt the measure, five cents;

For every cord of lathwood, ten cents;

For every thousand shingles, five cents; and for culling and repacking, ten cents;

For every thousand hogshead staves, thirty cents;

For every thousand barrel staves, fifteen cents.

Surveyors' certificates; their effect; provisions in case of dispute.

107. The surveyor's certificate shall be binding between the seller and purchaser, but in case they disagree, either party may call in three other surveyors who are in no way interested in the matter in dispute, to re-survey the same, and their decision shall be final. If the first survey be confirmed, the expense of the second shall fall upon the party by whom it is had, but if the first survey is not established, then the surveyor shall bear the expense of the second survey.

Fees of surveyor payable by seller; seller's duty on survey.

108. The surveyor's fees shall in all cases be paid by the seller, who shall remove all obstacles in the way of the surveyor, which may prevent him from viewing and measuring with facility any timber or lumber which he may be required to survey, and shall, if necessary, have the same canted. But the purchaser, upon any special agreement therefor, or if he shall require a fresh survey, shall pay the surveyor's fees.

Timber, lumber and shingles forfeited if sold without being surveyed; cargoes in the city of Halifax excepted.

109. All timber, lumber and shingles shall be surveyed and marked, as prescribed by this chapter, before delivery on sale or shipment for exportation, and if any person shall violate this provision he shall forfeit the article or the value thereof; but in the city of Halifax entire cargoes of lumber sea borne may be disposed of without the intervention of a surveyor between the first buyer and seller.

Shingles, clapboards and staves found defective to be rejected.

110. Upon the survey of shingles, clapboards and staves respectively, those which are deficient in quality or dimensions shall be rejected.

Shingles and clapboards forfeited when offered for sale deficient in the market quantity.

111. All shingles and clapboards exposed for sale by quantities in bundles and not holding the number they are marked for, shall, unless it appear that part thereof have been accidentally shaken out after packing, be forfeited.

Fine for destroying surveyor's marks on timber, &c.

112. Any person who shall without the permission of the owner of any timber or lumber, alter, deface or destroy the marks of a surveyor of lumber thereon, shall forfeit a sum not exceeding four dollars for each offence.

Fine for lumber surveyor violating his duty.

113. Any surveyor of lumber violating any of these provisions shall forfeit a sum not exceeding twenty dollars for each offence.

Limitation of actions.

114. All prosecutions under these provisions shall be commenced within twelve months from the time of the commission of the offence.

APPLES AND POTATOES.

Size of apple barrels.

115. The size and dimension of barrels used for putting up or packing apples or potatoes for sale shall be as follows;

to wit, the length of the stave or barrel shall be twenty-nine inches and the heads between the chimes seventeen inches, with a diameter in the centre inside the barrel of nineteen inches, thus corresponding as nearly as possible in shape and size to the Canadian or American flat hooped flour barrel.

116. All barrels used for the shipment of apples or potatoes shall have six hoops ; that is to say, two on each end and two on intermediate spaces, and shall also have the top head planed that the barrel may be properly branded or marked.

Number of hoops.

117. The makers of all apple or potato barrels shall brand the initial of their christian name and their whole surname on the outside of each barrel, near the top of the stave, under a penalty of twenty-five cents.

Barrels to be branded.

118. Any person putting up apples or potatoes for sale in barrels of smaller dimensions than those hereinbefore described, shall forfeit to the purchaser as damages, an amount in proportion to any diminution of size or loss sustained thereby, to be recovered as an ordinary debt and be liable to a fine of one dollar.

Penalty for selling in small barrels.

119. Nothing in the four last sections contained shall preclude the use of flour barrels in the shipment of any article of produce.

Not to affect flour barrels.

STAVES AND BRICKS.

120. All staves, bricks and other articles which are now reckoned by the tale of twelve hundred to the thousand, shall be calculated by the tale of ten hundred to the thousand.

Staves, bricks &c, how counted.

121. The general or a special sessions may appoint all inspectors and other officers necessary for carrying out the provisions of this chapter.

Sessions to appoint officers.



CHAP. 87.

OF GENERAL PROVISIONS RESPECTING CORPORATIONS.

Corporations;
their powers
and privi-
leges.

1. All corporations shall, where no other provision is specially made, be capable in their corporate name to sue and be sued, to prosecute and defend actions, to have a common seal which they may alter at pleasure, to elect in such manner as they may deem proper all necessary officers, and to fix their compensation and to define their duties, and to make by-laws and regulations not contrary to law nor repugnant to the charter or Act by which any such corporation may be created, for their own government and the due management of their affairs.

By-laws and
proceedings
be regulated
thereby.

2. All corporations may by their by-laws, where no other provision is specially made, determine the manner of calling and conducting meetings, the number of members which shall constitute a quorum, the number of shares which shall entitle the members to one or more votes, the mode of voting by proxy, the mode of selling shares for the non-payment of instalments, and of transferring shares generally, the tenure of office of the several officers, and the purchase, conveyance and sale of their real and personal estate; and they may annex penalties to their by-laws not exceeding in any case the sum of twenty dollars for any one offence.

Proceedings,
how recorded
when requir-
ed by the Act
of incorpora-
tion.

3. When any charter or Act of incorporation shall direct that the by-laws and list of shareholders, or either of them, shall be registered, no by-law of the incorporation shall be in force until a copy thereof, and also, if required by the charter or Act of incorporation, a list of the names of all the members of the corporation, with the amount of the stock held by each member respectively, certified under the hand of the president and secretary, or if the company shall not have been organized, under the hands of three at least of the members of the company, of whom one at least shall have been named in the charter or Act of incorporation, shall be recorded in the office of the registrar of deeds in such county as may be directed by such Act or charter; and no subsequent by-law, nor any subscription of additional stock, nor the transfer of any stock or shares in the corporation, except by devise or by descent, or other act of law, shall be effectual until a certificate thereof, under the hand

of the president and secretary, shall be recorded in the same office; and in all cases by-laws relating to the real estate of the corporation shall, before they become effectual, be recorded in manner above mentioned in the office of the registry of deeds for the county or district in which such real estate may be situate.

4. The first meeting of all corporations shall, unless otherwise provided in their charters or Acts of incorporation, be called by notice signed by any one or more of the persons named in the charter or Act of incorporation, and setting forth the time, place and purposes of the meeting; and such notice shall, seven days at least before the meeting, be delivered to each member, or left at his place of residence, or published in some newspaper of the county where the corporation may be established, or where its principal place of business shall be situate, or if there be no newspaper in the county, then in two of the Halifax newspapers.

First meeting; how called.

5. Whenever by reason of the death, absence or disability of the officers of any corporation there shall be no person authorized to call or preside at a meeting thereof, any justice of the peace may, on a written application of three or more of the members, issue a warrant to any one of such members, directing him to call a meeting of the corporation by giving the notice as required by law, and the justice may in the same warrant direct such person to preside at such meeting if there shall be no officer present legally authorized to preside thereat.

How called in special cases.

6. Such corporation when so assembled may elect officers to fill all vacancies then existing, and may act upon such other business as might by law be transacted at regular meetings of the corporation.

Powers and duties of corporation when assembled.

7. Notwithstanding the corporation may hold real estate, the shares of the stockholders shall be deemed to be personal property for all purposes.

Shares to be personal property.

8. The real estate of the company may be sold under execution in the same manner as personal estate, and the sheriff shall immediately after the sale execute a deed to the purchaser, which shall convey all the estate and interest of the company in the real estate so sold and conveyed.

Real estate to be sold as personal property.

9. All Acts or charters of incorporation shall expire unless the company thereby established shall go into operation within three years from the passing thereof, unless otherwise specially provided therein.

Acts to expire unless put in operation within three years.

10. All corporations whose charters after they shall have gone into operation shall expire by their own limitation, or

Charters to continue three years

after expiration for closing concerns.

shall be annulled by forfeiture or otherwise, shall nevertheless be continued as bodies corporate for the term of three years after the time when they would have been so dissolved, for the purpose of prosecuting and defending suits by or against them, and of enabling them to settle and close their concerns, to dispose of and convey their property, and to divide their capital stock ; but not for the purpose of continuing the business for which such corporations were established.

Trustees may be appointed to wind up business within the three years.

11. When the charter of any corporation shall expire or be annulled, as provided in the preceding section, the Supreme Court on application of any creditor of such corporation, or of any member at any time within the three years, may appoint a trustee or trustees to take charge of the estate and effects of the corporation, and to collect the debts and property due and belonging thereto, with power to prosecute and defend suits in the name of the corporation, and to appoint agents under them, and to do all other acts which might be done by such corporation if in being that may be necessary for the final settlement of the unfinished business of the corporation ; and the power of such trustees may be continued beyond the three years and as long as the court shall think necessary.

Officers and members how sued.

12. When any officer or member of a corporation is liable for any debts of the corporation or for acts in relation to its business, or to contribute for money paid by other officers or members on account of any such debts or acts, he may be sued therefor in the Supreme Court.

Liability of individual members.

13. No member of any corporation shall be relieved from individual liability for its debts or obligations ; but each member thereof shall be liable as a partner to the same extent as if no corporation existed ; and in case any execution issued on any judgment against the corporation shall be returned unsatisfied, the individual real and personal estate of every member of the corporation shall be liable to respond such judgment under execution issued thereon in the same manner as if the same were a private debt due by such member, unless the special Act creating the corporation shall exempt its members from such liability ; and any member who shall be so compelled to pay any moneys on account of the debts of the corporation shall be entitled to credit therefor in the books of the corporation.

Liability of directors &c., personally in special cases for overtrading.

14. The directors or board of managers of any such corporation, the liability of whose members shall be limited by the Act or charter of incorporation, unless otherwise specially directed therein, shall in all cases be personally liable for any responsibility incurred by them on account of the corporation beyond the amount of the stock subscribed

without the sanction of the company, to be obtained at a meeting thereof held in accordance with the by-laws, unless such larger amount of dealing be specially authorized by the Act or charter of incorporation; but this section shall not extend to insurance companies.

15. The acts of incorporated companies performed within the scope of their charters or Acts creating them shall be valid notwithstanding they may not be done under or be authenticated by the seal of such corporations. Acts of companies valid, without seal.

16. No corporation shall issue notes or bills for payment of money, for the purpose of circulating the same as money, or engage in any banking or insurance business unless especially authorized to do so by its Act of incorporation, and if any corporation not so authorized shall issue such bills or notes, or shall engage in any banking or insurance business, its charter shall be thereby rendered void. No company to engage in banking or insurance business unless specially authorized.

17. Whenever in any Act or charter of incorporation any disputes or matters of controversy in which the corporation may be interested, or any damages to which they may become liable, shall be directed to be settled or ascertained by arbitration, the mode of proceeding on such arbitration, unless otherwise prescribed, shall be as follows, viz. : unless both parties shall concur in the appointment of a single arbitrator, each party on the request of the other party shall by writing under the hand of the parties interested, or on behalf of the corporation under the hand of the president or one of the directors and the secretary, appoint an arbitrator to decide the matter in question, and after such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of any of the parties operate as a revocation thereof; and if either party shall fail to appoint an arbitrator within fourteen days after service upon him of such written request, a judge of the Supreme Court, at the instance of the party making such request, may appoint an arbitrator to act on behalf of both parties, who may proceed to hear and determine the matters in question, and his award shall be final. If any arbitrator after his appointment die or become incapable from absence or otherwise, or refuse, or for seven days neglect, to act as arbitrator, the party by whom he was nominated, or a judge of the Supreme Court, may appoint in writing some other person to act in his place; and if for seven days after such substituted arbitrator shall have received notice in writing from the other party for that purpose he fail to do so, the other arbitrator may proceed to hear and determine the matters in question. Arbitrations; how conducted where a corporation is a party.

Where two arbitrators shall have been appointed, they shall before entering upon the matters referred to them, appoint by writing under their hands an umpire to decide

in case they shall differ, and if the umpire shall die, refuse, or for seven days neglect to act, they shall forthwith appoint another umpire in his place, whose award together with that of one or both of the arbitrators, shall be final.

The arbitrators or umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the matters referred to them, and may examine the parties and their witnesses on oath, and administer the oaths necessary for that purpose.

Unless otherwise provided in the Act or charter of incorporation, the costs attending such arbitration shall be paid by such party, or by both parties, in such proportions as may be directed in the award.

The submission to any such arbitration may be by rule or order of any court.

Abstract of receipts, &c., of all joint stock incorporated companies to be filed, &c.

18. All joint stock incorporated companies doing business in this province by agents or otherwise shall, once in every year, produce and file in the provincial secretary's office, an abstract of all their receipts, expenditures, profits and losses within the province, and, when required by the Governor in Council, such rules, by-laws, accounts and such other of their proceedings as shall be specified in such requisition.

Penalty.

19. Any such corporate body refusing or neglecting to furnish such abstract or to comply with such requisition, shall forfeit a penalty of twenty dollars for every month during which such default shall continue.

Insurance corporations to make annual returns to office of Provincial Secretary.

20. On or before the last day of February in every year a return shall be made into the Provincial Secretary's office, by the president, agent or manager of every company, corporate body or agency doing business as insurers in this province, of the business of insurance upon lives, against fire, and upon all marine risks done by them, respectively, between the first day of January and the thirty-first day of December preceding such return, both days being included, which return shall comprehend the number of policies entered into, the number of policies renewed, the amount insured, and the premiums paid, and, in case of insurance against fire, the nature of the property insured, whether real or personal, and its situation, whether in the city of Halifax or in other parts of the province; in case of marine risks the ports to which the vessels insured belong, where it can be known, and shall also state the capital and other security for the payment of losses, and where the same is situated; and in case of companies and corporate bodies out of Nova Scotia, whether there is any security or capital within the province for the payment of losses, and the nature, permanency and amount thereof, which returns shall be certified to

be true by the president, agent or manager of every such company, corporate body or agency, respectively; and every such president, agent or manager, neglecting to make such return, or knowingly making a false or defective return, shall forfeit two hundred dollars.

21. All Acts of incorporation of wharf, pier or breakwater companies, heretofore passed by the Legislature, whether temporary or perpetual, and also all such Acts of incorporation hereafter to be passed previous to the session of the General Assembly, in the year one thousand eight hundred and seventy-five, shall continue in force until the thirty-first day of December, in that year, and no longer, unless renewed by Act of the Legislature.

Acts of incorporated pier companies, &c., to continue to 31st December, 1875.

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CHAP. 126.

OF THE COURT OF MARRIAGE AND DIVORCE.

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Jurisdiction
of the court.

4. The court shall have jurisdiction over all matters relating to prohibited marriages and divorce, and may declare any marriage null and void for impotence, adultery, cruelty, pre-contract, or kindred within the degrees prohibited in an Act made in the thirty-second year of King Henry the Eighth, entitled an Act concerning pre-contracts, and touching degrees of consanguinity; and whenever a sentence of divorce shall be given, the court may pronounce such determination as it shall think fit on the rights of the parties or either of them to curtesy or dower.

Examination
of witnesses
and the sen-
tence of
court; its
power over
costs.

5. The court may direct the examination of witnesses orally, and declare, by definitive sentence or otherwise, the marriage between the parties in the suit to be null and void from such time as the court may deem proper, and may allow costs and alimony to the wife during the suit, and upon its termination may award costs to either of the parties.

Power of the
court to en-
force its sen-
tence.

6. The court may enforce the performance of any sentence by means of an execution similar to that issued out of the Supreme Court, and when any property is sold by virtue of such execution, the proceeds thereof, deducting poundage and expenses, shall be paid into the registry of the court, to be disposed of as the court may direct.

Rules, orders,
&c., how
signed.

7. The rules, orders, process, and other proceedings of the court, may be signed by the registrar, and the signature of the president or vice-president shall not be necessary unless the court shall otherwise order.

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CHAP. 133.

OF MUNICIPALITIES.

So much of this section is in force as relates to the appointment of inspectors of provisions, lumber, fuel, and other merchandize, and is unrepealed by 36 V., c. 49, s. 20 (D.)

* * * * *

118. Municipality councils shall appoint commissioners of sewers in their respective districts or counties, who shall have power and authority to carry out the provisions of chapter seventy-two, "of commissioners of sewers, and the regulating of diked and marsh lands," and shall also appoint inspectors of provisions, lumber, fuel, and other merchandize, under the eighty fifth chapter, except the inspectors of pickled fish.

Commissioners of sewers

Inspectors of lumber, &c.

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CHAP. 135.

OF WITNESSES AND EVIDENCE AND THE PROOF OF WRITTEN DOCUMENTS.

This section is in force in so far as it relates to any proceeding instituted in consequence of adultery.

* * * * *

Incompetent
Witnesses.

44. But nothing herein contained shall render any person who, in any criminal proceeding, is charged with the commission of any indictable offence, or any offence punishable on summary conviction, other than those mentioned in preceding section, competent or compellable to give evidence for or against himself, or shall render any person compellable to answer any question tending to criminate himself; and nothing herein contained shall render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband in any criminal proceeding, or in any proceeding instituted in consequence of adultery.

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CHAP. 137.

OF THE RELIEF OF INSOLVENT DEBTORS.

1. Commissioners for giving relief to insolvent debtors shall be appointed by the Governor in Council.

Commissioners appointed, how.

2. Where any person imprisoned upon any writ of mesne process, execution or attachment for non-payment of money, issuing out of the Supreme Court, shall desire to take the benefit of this chapter, he shall exhibit a petition to a judge of the Supreme Court, or to two commissioners, praying for his discharge. The petition shall be accompanied by a schedule of all the property, real and personal, of the debtor, of all debts due or growing due to him, and of all securities by him held, which might by any possibility be made available, or which might become assets in the hands of his representatives, and also, so far as the same can be obtained by the debtor, a statement showing the amount of his liabilities.

Prisoner to exhibit petition and schedule annexed

3. The judge or commissioners shall thereupon forthwith issue a summons calling upon the creditor at whose suit the debtor is imprisoned, at a certain time or place to be therein named, to show cause why such prisoner should not be discharged.

Summons thereupon to issue.

4. True copies of the summons and schedule shall be served on the creditor, his attorney or agent, or where a debtor is imprisoned at the suit of the Crown, on the Attorney General, at least forty-eight hours before the time appointed for showing cause; and where the creditor, his attorney or agent, or the Attorney General, shall reside more than twenty miles from the place so appointed, twenty-four hours additional shall be allowed for every additional twenty miles. The service of such copies, if not admitted, must be proved on oath by the person serving the same, which oath may be administered by a justice of the peace, and a further time may be allowed for the examination, in the discretion of the judge or commissioners, where the creditor himself has not been served.

Copy of summons and schedule, how served; time from date of service till return to be proportioned to distance.

5. In cases where the insolvent debtor is imprisoned under process issued out of a court of justices of the peace, or that of any stipendiary magistrate, the notice required by

Service on agent where plaintiff non-resident, in

cases out of
justices court,
&c.

the next preceding section may, in cases where the plaintiff is not resident in the county, be served upon the agent at whose instance the process was issued. If there be no agent within the county, and if the plaintiff's place of residence be out of the province or unknown, the notice may be left with the justice or stipendiary magistrate, whose name is first subscribed to the process, and the same shall be considered a service upon the plaintiff; but in the last case the notice shall be left with the justice or stipendiary magistrate at least ten days before the day named for bringing up the insolvent.

Oath to be ad-
ministered to
prisoner if re-
quired.

6. At the time appointed the judge or commissioners shall, if desired by the creditor, administer an oath to the debtor in the following form:—

"I, A. B., do swear that I will true answer make to all such questions as shall be asked me on this examination."

Order for dis-
charge upon
assignment
made and
oath taken;
form of oath;
confession
may be re-
quired in case
of mesne pro-
cess.

7. The judge or commissioners shall give an order for the discharge of the debtor, unless in the cases hereafter provided for, upon the debtor's making an assignment to the creditor, in trust for the payment of the debt, of his real and personal property, upon his taking and subscribing an oath to the following effect:—

"I, A. B., do swear that the schedule annexed to my petition contains a true account of all the real and personal estate which I or any person in trust for me at the time of my petition had, or now have, or may hereafter have, except the wearing apparel and bedding for me and my family, and the tools or instruments of my trade or calling, not exceeding forty dollars in the whole; and that I have not since my imprisonment or before conveyed in trust for myself, or otherwise, except as in such schedule mentioned, any part of my property, whereby to defraud any of my creditors. So help me God."

The taking of which oath may be waived by the creditor; and in case of imprisonment under mesne process, if the judge or commissioners are satisfied of the existence and amount of the debt, the debtor shall sign a confession of judgment therefor, and shall do such other acts as the judge or commissioners shall direct.

Debtors at the
suit of the
Crown, how
discharged.

8. When a debtor is imprisoned at the suit of the Crown, and the judge or commissioners are satisfied of the insolvency of such debtor, he or they shall certify the same, together with an inventory of all the property of the debtor, and the Governor may thereupon by warrant under his hand and seal, order the Attorney General to assent on behalf of Her Majesty to the discharge of the insolvent, either with or without an assignment of his property.

Prisoner may
be remanded
on affidavit.

9. If the creditor, or in his absence his attorney or agent, shall forthwith, in the presence of the judge or com-

missioners, make an affidavit in writing, stating that he has good reason to be dissatisfied with the account given, and believes that the debtor has not disclosed the whole truth, or has other property than that by him admitted. the judge or commissioners shall remand the debtor, and appoint another day for the further hearing of the matter, and shall on that day again meet and discharge or remand the debtor, or make such further order as the justice of the case may require.

10. When upon the examination of the debtor, or of any witnesses that may be produced on either side, and which witnesses shall be bound to attend on subpoena as in actions pending in the Supreme Court, the debt shall appear to have been fraudulently contracted, or any fraudulent circumstances have occurred in respect of such debt, or in respect of the delay of payment thereof, or in respect of the conduct of the debtor with regard to the disposition of his property, or in cases of tort where the judge or commissioners shall be of opinion that such tort was wilful and malicious, the judge or commissioners may remand the debtor to be confined without the privilege of jail limits, for such time under one year as he or they shall deem proper under the circumstances; at the end of which time the debtor shall be discharged on making the affidavit and assignment of his property before a judge or any two commissioners.

In cases of fraud, prisoner may be remanded for a period not exceeding one year without privilege of jail limits.

11. Where the judge or commissioners shall remand the debtor for fraud, such judge or commissioners shall tax the fees of witnesses attending on behalf of the creditor, and if not paid, shall remand the debtor for such further period as he or they may deem right.

When remanded for fraud witnesses' fees to be taxed against debtor.

12. Where the debtor is imprisoned under a *capias* or execution issued by a justice or justices of the peace, any two justices shall possess the same powers in respect to the relief of insolvent debtors as a judge.

Two justices may relieve in case of process issuing out of justices court.

13. In cases where the hearing shall be had before commissioners or justices of the peace, the debtor shall be entitled to an appeal, and if the creditor, or in his absence his attorney or agent, shall demand an appeal, and shall make an affidavit in writing that he is dissatisfied with the decision, and that the appeal is not made for the purpose of delay only, but that substantial justice may be done him therein, or to that effect, the commissioners or justices shall grant such appeal and remand the debtor.

Appeal to be had by either party.

14. The Supreme Court shall be the court of appeal, if it shall be sitting within the same county at the time the order appealed from was made, or if such sitting shall be

Supreme court, a judge thereof, or a special ses-

sions, to be
the court of
appeal.

held within ten days from the making of such order. When such shall not be the case, then any judge of the Supreme Court, if within such county; and in case a judge shall not be present, then a special sessions of the peace shall be the court of appeal. The special sessions shall be summoned by the prothonotary and be held within three days, and shall consist of any three justices of such county not concerned in the making of the order.

Powers of the
court of ap-
peal.

15. The court of appeal shall hear and determine such appeal, and make such orders therein from time to time as it shall deem proper, such orders being not inconsistent with this chapter.

Papers to be
returned to
the supreme
court.

16. The judge, commissioners, justices, and court of appeal, shall return to the Supreme Court of the county all the papers connected with their proceedings on such applications and appeals.

Prisoner to be
discharged by
order.

17. Upon receiving an order to that effect from the judge, commissioners, justices or court of appeal, the officer in whose custody such prisoner shall be, shall discharge him therefrom as regards the suit expressed in the order.

Property of
debtor liable
for debt, after
his discharge.

18. Where any person shall be discharged under the provisions of this chapter, any property owned by him at the time of the judgment, or subsequently acquired, and not in the possession of a *bonâ fide* holder without notice, may nevertheless be levied upon for the debt under execution issued on the same judgment.

Sheriff's fees,
who liable
therefor on a
discharge.

19. When any person shall be discharged under the provisions in this chapter the party at whose suit he has been committed to jail, shall be liable to pay the sheriff his fees for the service, return and travel necessary in serving the process, under which the party was arrested.

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CHAP. 148.

OF THE WRIT OF CERTIORARI.

1. Previous to issuing a writ of *certiorari* the judge or commissioner shall require the person applying therefor to file sufficient bail, in such reasonable amount as the judge or commissioner shall direct, to respond the judgment to be finally given in the cause, and the judge or commissioner shall endorse on the writ the amount for which bail is filed, with the names of the bail, and also the date when the writ was allowed, and shall put his signature thereto.

Bail to be filed before issuing a writ of *certiorari*; endorsement required on the writ.

2. In all causes and proceedings brought up by *certiorari*, the court may inquire into the facts anew, if it shall seem to them to be necessary, and may order a trial thereof by jury.

Court above may inquire anew into the facts, and may order a trial by jury.

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CHAP. 153.

OF THE LIBERTY OF THE SUBJECT.

For removing doubts :

Certain Acts
of Imperial
Parliament to
have force in
this Province.

Judges of su-
preme court
same power
as judges in
England.

Rights, &c.,
conferred on
inhabitants of
this Province.

Not to take
away common
law right to
*habeas cor-
pus*.

*Habeas cor-
pus* may be
granted by a
judge or the
court.

Preamble.

1. The Act of the Imperial Parliament, passed in the thirty-first year of the reign of King Charles the Second, entitled "An Act for the better securing the liberty of the subject and for the prevention of imprisonment beyond the seas," and the Act of the Imperial Parliament, passed in the fifty-sixth year of the reign of King George the Third, entitled "An Act for more effectually securing the liberty of the subject," and all Acts of the Imperial Parliament passed in addition to, or amendment of, or on the same subject as the said recited Acts, or either of them, have full force and effect in this province as far as are applicable within this province ; and the Supreme Court and the judges thereof have the same authority and power over cases within the purview of the said Acts here as the courts mentioned in the said Acts and the judges thereof have in England ; and the rights and remedies, and the obligations, punishments and penalties conferred and imposed by the said statutes, or either of them, are conferred and imposed upon and made applicable to persons within this province, as fully as if the said Acts were re-enacted and specially extended to the courts, judges, officers, and to persons within this province.

2. The preceding enactment shall not be construed to abrogate or abridge the remedy by the writ of *habeas corpus* at common law, but the same exists in full force, and is the undoubted right of the people of this province.

3. The writ of *habeas corpus*, whether under statute or common law, may be applied for to and be granted by a judge of the Supreme Court, returnable before himself or returnable before the court, and may be applied for to and may be granted by the court, returnable to itself or to a judge in vacation ; and whereas, provisions may be made for affording further facilities for relief in case of persons illegally restrained of their liberty, especially where it would be attended with unnecessary delay, expense, or inconvenience, in bringing the body of the party before the court or judge,

4. Therefore, upon sufficient cause shown to the court, or to any judge of the Supreme Court, by or on behalf of any person confined in any jail or prison, such court or judge may, in the discretion of the court or judge, and is hereby empowered (instead of granting *fiat* for a writ of *habeas corpus cum causa* requiring the keeper of such jail or prison to bring the prisoner before the court or judge in order that the legality of such imprisonment may be enquired into and discharge, bailment or recommitment had thereon), by rule of the said court, or by order of the judge in writing, signed by him with his name, addition of office, and place of residence, to require and direct such keeper to return to the court or to the judge whether or no such person is detained in prison, together with the day and cause of his having been taken and detained.

Court or judge may give rule or order instead of writ.

5. It shall be the duty of such keeper immediately upon the receipt of such order to make a true and full return in writing to the court, or to such judge, of the day and cause of such taking and detention to the same effect as a return to a writ of *habeas corpus* would now be made; such return always to include a copy of the process, warrant or order, upon which the said prisoner is held, where the same is of a criminal nature, or upon any summary complaint or conviction before any justice of the peace; and such judge may enforce obedience to such order by process of contempt, in the same manner as he may compel proper return to be made to a writ of *habeas corpus*.

Duty of keeper on receipt of order.

6. Upon return to such order, the court or judge may proceed to examine into and decide upon the legality of the imprisonment, and make such order, require such verification, and direct such notices or further returns in respect thereof as may be deemed necessary or proper for the purposes of justice; and may by rule of court or by order in writing signed as aforesaid, require the immediate discharge from prison, or may direct the bailment of such prisoner in such manner and for such purpose and with the like effect and proceeding as is now allowed upon *habeas corpus*: such bail when ordered, to be entered into before any justice of the peace specially named in such order, or any justice of the county or place where there is no such nomination.

Upon return of order court or judge may proceed.

7. It shall be the duty of such keeper immediately upon the receipt of any rule of court or order of a judge in relation to a prisoner in custody, to communicate the same to such prisoner and to give him a true copy thereof if demanded, and to obey the requirement of the same.

Keeper to report order to prisoner and furnish copy.

8. In all cases whether under statute or at common law or under the provisions of this chapter, it shall be lawful for the court or a judge to require the production of all such

Court or judge may require production of

proceedings,
documents,
&c.

proceedings, documents and papers, relating to the matter in question, before whomsoever and in whosesoever possession as to the court or judge may appear necessary for the elucidation of the truth, and may also examine into the truth of the return to any writ of *habeas corpus*, or rule or order granted under this chapter, in the same manner as such examination is provided for in cases under the before mentioned Act of Parliament, passed in the fifty-sixth year of the reign of King George the Third.

Wilful neglect
or disobedience
of judge's
order a misde-
meanor.

9. Every wilful neglect or disobedience of a rule of court, or the order of a judge in relation to a prisoner, shall be deemed a misdemeanor, and punishable as such by fine and imprisonment, or either, at the discretion of the court.

Return may
be heard by
any other
judge.

10. The matter of the return made to the order of a judge may be heard and decided on by any other judge of the Supreme Court, who shall have the same power and jurisdiction in respect thereof as the judge by whom the first order was made.

Order not to
enable keeper
to discharge
for other mat-
ter.

11. No order made under this chapter shall require or enable the keeper of any jail or prison to discharge the prisoner from any commitment or charge other than that specified in such order, but it shall be the duty of such keeper in every return to specify the several causes of commitment and detention, if more than one; and if between the time of making the return and receiving an order for the discharge or bailment, any other warrant, process or order shall have been delivered to him, requiring the detention of the prisoner upon any charge of a criminal nature, or summary complaint or conviction, such keeper shall without any further order make and transmit to the court or judge an additional return, with a copy of such warrant, process or order, and the time of receiving the same, which may be dealt with by the court or judge as if made pursuant to an order for that purpose granted.

This chapter
not to prevent
civil action.

12. Nothing in this chapter contained shall extend or be construed to deprive any person who may have been falsely imprisoned from his remedy by civil suit against any person who may have illegally caused such imprisonment, but the court or judge by whom relief may be afforded may by his order exempt any such keeper of a jail from civil suit who may appear to him to have acted upon the warrant or order of any judge or justice, according to the requirements of the same, without malice or evil intent, although such warrant or order may be bad in form or substance; and any such order of exemption may

be pleaded in bar to any action brought against such keeper, or notice given thereof as an additional ground of defence under any Act of this province in such case made and provided.

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CHAP. 155.

OF COSTS AND FEES.

Fees to be as in this chapter prescribed. **1.** Fees for the services mentioned in the schedule to this chapter shall be as therein prescribed.

Penalty for taking excessive fees. **2.** Any person taking greater fees shall, for each offence, forfeit to the party aggrieved forty dollars, which sum, with such excessive fees, may be recovered by him in an action for debt.

Actions for penalties where to be brought; their limitation. **3.** Actions for such forfeitures shall be brought in the county where the offence was committed, and within six months next after the date of such offence.

Prothonotaries to furnish bill of items when required. **4.** The prothonotaries shall, whenever required, furnish to the attorneys or parties requiring the same, a bill of the items of his own, the crier's and constable's fees, on penalty of twenty dollars; and nothing shall be taxed for such fees if the demand be made and not complied with before taxation of the costs in the cause.

SCHEDULE.

* * * * *

COURT OF MARRIAGE AND DIVORCE.

For the governor, vice-president and judges, for each day they shall actually attend, each..... \$4 00

Advocate and proctor's fees.

Retaining fee for counsel.....	5 00
Proxy	1 50
Draft of libel or other pleading, per folio.....	0 20
Engrossing same, per folio.....	0 10
Entering appearance.....	0 75
Every subpœna, citation or other writ.....	1 00
Copies for service, each.....	0 30
Drawing affidavit of service of subpœna, citation, or other process or proceeding.....	0 40

Every petition necessary in conducting a cause.....	0 75
Every order.....	0 75
Counsel fee on making or defending every special motion, not to exceed.....	5 00
Drawing brief in every cause, per folio.....	0 20
Counsel fee for examining and signing each pleading	2 33
Draft of interrogatories, per folio.....	0 20
Engrossing ditto.....	0 10
Counsel fee on hearing or argument, not to exceed...	14 00
Making up bill of costs.....	0 75
Serving every subpoena, or other writ or order.....	0 70
Travel per mile from the residence of the party making service to the place of service.....	0 05
Every necessary attendance on the registrar.....	1 50
Draft of decree, per folio.....	0 10
Engrossing ditto.....	0 10

Registrar's fees.

Entering and filing every bill.....	0 50
Entering and filing every other pleading.....	0 30
Filing all other papers, each.....	0 10
Signing and sealing every writ, and certifying copies	0 50
Every search.....	0 20
Copies of all papers, per folio.....	0 10
Drawing and signing every rule or order.....	0 20
Every necessary attendance on the vice-president....	1 00
Every court day.....	1 00
On procuring signature of final decree.....	1 50

Commissioners on examination of witnesses.

For taking the examination of every witness, each commissioner per day.....	5 00
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CHAP. 159.

OF OFFENCES AGAINST RELIGION.

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Fine for desecration of the Lord's day.

2. Any person who shall be convicted before a justice of the peace of shooting, gambling or sporting, of frequenting tippling houses, or of servile labor, works of necessity and mercy excepted, on the Lord's day, shall for every offence forfeit not less than one nor more than eight dollars, and in default of payment shall be committed to jail for a term not less than twelve hours nor more than four days.

* * * *

Loosing or injuring horses, &c., in vicinity of such meetings.

4. If any person shall wilfully or wantonly untie, remove, or let loose, disfigure or injure any horse, or remove or meddle with, injure or destroy any vehicle, or cut, injure or destroy any harness connected with such horse or vehicle, while the same are in the vicinity of any place where such meeting may be in the act of being held, he shall for every offence forfeit a sum not less than five dollars nor more than forty dollars.

Arrest and punishment of offenders.

5. Any person offending against the provisions of the third and fourth sections of this chapter, may be arrested on view by any peace officer present at such meeting, or by any other person thereto verbally authorized by any justice of the peace present thereat; and such offender shall thereupon be committed to the county jail until he shall find security to the satisfaction of a justice for his good behaviour, and to pay any fine or penalty that may be imposed upon him on any prosecution for such offence.

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CHAP. 160.

OF OFFENCES AGAINST PUBLIC MORALS.

* * * * *

2. Any person who shall be convicted of incest shall be ^{Punishment} guilty of a misdemeanor, and shall be imprisoned for a ^{for incest.} term not exceeding two years.

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ACT
OF
NOVA SCOTIA
PRIOR TO THE REVISED STATUTES (3RD SERIES)

CHAP. 2 OF THE ACTS OF 1862.

An Act for the incorporation and winding up of Joint
Stock Companies.

[*Passed 31st March, 1862.*]

Declaration
required on
formation of
company by
five or more—
its contents,
&c.

1. Any five or more persons who desire to form a joint stock company, and to become incorporated, may make and sign a declaration thereof, in writing, according to the form in schedule A, in which they shall state the names and residences of the subscribers, the number and amount of shares of which the capital stock is to consist, the number of shares taken by each subscriber, the corporate name of the company, not being that of any previously existing company, the object for which the same is formed, the name of the town or place where the business of the company is to be carried on, and the amount of capital to be paid up before the company shall go into operation; but no company shall be thus incorporated for banking, insurance, or ordinary mercantile and commercial business; nor shall any company incorporated under this Act engage therein.

Restrictions.

Declaration
to be in dupli-
cate—how
signed.

2. Such declaration shall be signed in duplicate by the parties desirous of being incorporated, by themselves or an agent or agents thereunto duly authorized in writing; and in such case the power of attorney shall, if executed out of the province, be duly authenticated by a notarial certificate; and such power of attorney and certificate shall be attached to the declaration; and the declaration shall in all cases be, and purport to be, executed in the presence of a subscribing witness to each signature; and one of the duplicates, with the original power of attorney attached, shall be filed in the office of the registrar of deeds for the county or district wherein the proposed place of business is situate; and the other duplicate, with a copy of such power of attorney, shall be filed in the office of the Provincial Secretary at Halifax.

To be filed in
offices of reg-
istrar of deeds
and Provinci-
al Secretary.

3. When the formalities prescribed in the foregoing sections have been complied with, the persons signing the said declaration, their associates, and successors, shall be a body corporate, by the name therein mentioned, to the same extent as companies incorporated by Act of the Legislature, and be subject to chapter eighty-seven of the Revised Statutes, "Of general provisions respecting corporations," except as herein provided.

On compliance with foregoing sections, parties to be a body corporate.

4. Before any such company shall go into operation twenty-five per cent. of the subscribed capital shall be actually paid up in cash; and a certificate thereof, verified by oath of the president and treasurer of the company, shall be filed in the office of the registrar of deeds for the county.

When to go into operation.

5. The term of such company's existence shall not extend beyond the year A. D. 1875.

Term of existence.

6. Every shareholder shall be liable in his person and separate estate during membership, to an amount equal to double the stock held by him, deducting therefrom the amount actually paid to the company on such stock, unless he shall have made himself liable for a greater amount by becoming surety for the debts of the company. But no shareholder who may have transferred his interest in the stock of any such company, shall cease to be liable for any contracts of the company entered into before the filing of the certificate of transfer, provided by the sixteenth section of this Act, so as any action in respect of such liability shall be brought within six months after the filing of such certificate.

Liability of shareholders.

Liability after transfer of shares.

7. If the directors declare and pay any dividend when the company is insolvent, or whereby the company is rendered insolvent, or which would diminish the amount of its capital stock, they shall be jointly and severally personally liable for all the debts of the company then existing, and for all debts subsequently created during their tenure of office; but any director who objects to the payment of such dividend, may, before such payment, file with the secretary of the company, and with the said registrar, a written statement of such objection, and shall be thereby exempt from such liability.

If dividend paid out of capital, directors liable for debts.

Directors filing objections exempt

8. Whenever the whole capital stock has been taken up, and a majority of the directors of a company, by their votes, resolve and declare that the capital stock of such company is insufficient for the purposes thereof, they may call a general meeting of the stockholders of the company, giving at least thirty days' notice of such meeting, by a written notice, signed by the secretary, and addressed to each of the shareholders or their representatives, and transmitted

Meeting for increasing capital stock — how called, &c.

through the post office, and by advertisement thereof in a public newspaper, published nearest to the place where the company's affairs are transacted, and continued to be so published until the day of meeting.

Proceedings
thereat.

9. At such meeting a majority of the stockholders holding a majority of the shares in the company, may, by their votes given thereat, in person or by proxy, pass a resolution authorizing the directors of the company to increase the capital stock thereof to such amount as they deem necessary for the purposes of the company, the amount whereof shall be expressed in such resolution; and thereupon the said directors may pass a by-law for the purpose of increasing the capital stock to the amount mentioned in the resolution of the general meeting of stockholders as aforesaid, and for declaring the number of shares into which such capital stock shall be divided, and the time and manner of payment of the several calls to be made for the payment of such new stock, twenty-five per cent. at least of which shall be actually paid up in cash.

Twenty-five
per cent. to
be paid in.

New stock—
how taken
up.

10. Upon the passing of such by-law all persons who desire to become holders of any share or shares of such new stock, may make and sign a declaration, in which shall be set forth:—

Contents of
declaration.

11. The amount of such new stock; the total amount of the company's capital stock, including new stock; the number of shares of such new stock; the total number of old and new shares of stock; and which declaration shall also contain a column wherein shall be set in figures opposite to the signature of each subscriber the number of shares for which he subscribes.

To be in dup-
licate and
filed.

12. Such declaration shall be signed in duplicate, shall be certified and filed in the office of the Provincial Secretary, and in the district or county registry of deeds office, in the manner mentioned in the second section of this Act.

Not to be filed
until half
stock sub-
scribed.

13. The declaration shall not be so filed or certified until at least one-half of the new stock has been subscribed.

Names of
stockholders
to be entered
in books prop-
erly.

14. When the declaration has been so filed the name of every stockholder contained therein shall forthwith be entered in the books of the company, as that of a stockholder, with the date of subscription and number of shares subscribed for; and so long as any of the said stock remains unsubscribed for any person desirous of becoming a stockholder may subscribe his name to the declaration filed in the registry office, for one or more of such unsubscribed shares; and the name of such subscriber shall forthwith be entered into the books of the company in manner aforesaid.

Remainder of
stock, how
taken up.

15. Upon the performance of the several acts mentioned in the next preceding section, and payment of the instalments as required by the tenth section, every such stockholder whose name has been subscribed to the declaration, shall immediately thereupon become a member of the corporation, and from thenceforth shall have and enjoy the same rights and privileges, and be subject to the same conditions, restrictions and liabilities to which the original stockholders are thenceforth entitled or liable; and such new shares of stock shall from thenceforth be subject to all the provisions of this Act, relative to such companies, in the same manner as if they had formed a part of the stock originally subscribed.

Upon compliance with Act, new stockholder to be a member of the corporation.

16. The by-laws of the company, and all the amendments thereof, made therein from time to time, and the names of all future shareholders in the company, and the transfers of all shares, with the dates of such transfers, shall be certified in duplicate by the president under his hand, which certificate shall, within one month, be transmitted to the Provincial Secretary's office, and filed in the office of the registrar of deeds of the county or district; which transfer shall not be complete until such certificate is filed.

By-laws and transfers to be certified and filed.

Transfer not completed until filed.

17. If three or more parties shall desire to be incorporated for any lawful purpose or business, and shall make, execute, and file a declaration similar to that referred to in the first section, except that no reference need be made to the proposed capital, and shall state therein that they do not seek under such incorporation to become free from personal responsibility, such parties shall thereupon become a body corporate, and shall be entitled forthwith to go into operation; but in that case the members thereof shall be personally liable for all debts and undertakings of the company.

Declaration required for the formation of a company by three or more.

Liability.

18. No company shall become incorporated under this Act, or be entitled to the privileges thereof, unless it shall go into operation within one year from the filing of the declaration first hereinbefore referred to.

Company must go into operation within one year.

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20. No gas or water companies shall be incorporated under this Act within the city of Halifax.

Gas and water companies.

21. This Act may be cited as "The Joint Stock Companies Act of 1862."

Title of Act.

SCHEDULE.

Be it remembered that on this — day of —, A. D. 18—, we the undersigned shareholders have agreed and re-

solved to form ourselves into a company, to be called "————," according to the provisions of chapter 87 of the Revised Statutes, and an Act of the province, entitled "An Act for the incorporation and winding up of Joint Stock Companies," for the purpose of————; and we do hereby declare that the capital stock of said company shall be——— dollars, which may be increased from time to time, to be divided into —— shares, of the value of —— dollars each, and that twenty-five per cent. at least of such capital stock shall be actually paid up before the said company shall go into operation.

And we the undersigned stockholders do agree to take and accept the number of shares set by us opposite our respective signatures; and we do hereby agree to pay the calls thereon, according to the requirements of the said Act, and of any rules, regulations, or by-laws of the said company, to be made or passed in that behalf.

And we do hereby appoint———— to be the place for holding the annual and other meetings of the said company.

Name.	Place of abode.	Number of shares.	Amount.

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ACTS

OF

NOVA SCOTIA

SUBSEQUENT TO THE REVISED STATUTES.

29 VIC., CHAP. 12.

An Act to amend Chapter 154 of the Revised Statutes
"Of The Limitation of Actions."

[Passed the 7th day of May, 1866.]

BE it enacted by the Governor, Council, and Assembly,
as follows :—

* * * * *

15. All actions for rent upon an indenture of demise, all actions upon any bond or other specialty and all actions of *scire facias* upon any recognizance, or actions for an escape, or for money levied on any execution, and all actions for penalties, damages, or sums of money given to the party grieved, by any statute now or hereafter to be in force, that shall be sued or brought at any time after the end of the present session of Assembly shall be commenced and sued within the time and limitation hereinafter expressed and not after:—that is to say, the said actions for rent upon an indenture of demise, or upon any bonds or other specialty, actions of *scire facias* upon recognizance within ten years after the end of this present session, or within twenty years after the cause of such actions or suits, but not after; the said actions by the party grieved, one year after the end of this present session, or within two years after the cause of such actions or suits, but not after; and the said other actions within three years after the end of this present session or within six years after the cause of such actions or suits, but not after; provided that nothing herein contained shall extend to any action given by any statute where the time for bringing such action is or shall be by any statute specially limited.

* * * * *

Limitation of time for commencement of particular actions.

Actions of demise or bonds, &c., within ten years after end of session or 20 years after cause of action.

Actions for damages one year after present session, or two years after cause of action.

Other actions within three years after session or six years after cause of action.

Actions brought under particular statutes excepted.



29 VIC. CHAP. 13.

An Act to amend the laws relating to Divorce and Matrimonial causes.

[*Passed the 7th day of May, A.D. 1866.*]

BE it enacted by the Governor, Council, and Assembly, as follows:—

Secs. 1, 2 and 3, cap. 126, Revised Statutes, and section 10, cap. 1, Acts 1865, repealed; cap. 126, amended.

Style of Court changed to Court for Divorce and Matrimonial causes.

The present Vice-President shall compose the Court under the style of the Judge Ordinary.

In case of vacancy, Equity Judge shall be Judge Ordinary.

During illness or absence of Judge Ordinary Chief Justice or one of Judges to take his place.

Seal of Court.

Sealed papers of Court to be evidence.

Present Registrar continued, vacancies, how filled.

1. The first, second and third sections of chapter 126 of the Revised Statutes, and section ten of chapter one of the Acts of the General Assembly of 1865 are repealed, and chapter 126 is amended as follows:—

2. The style of the court is changed from the court of marriage and divorce to the court for divorce and matrimonial causes. The present vice-president shall compose the court, and exercise the powers thereof, under the title of the judge ordinary of the court for divorce and matrimonial causes, as well in all causes and proceedings now pending therein as in all causes and proceedings hereafter to be prosecuted and had, and when a vacancy shall occur the judge in equity for the time being shall be the judge ordinary of the said court.

3. During the illness or temporary absence of the judge ordinary the Governor in Council, if occasion shall require, may appoint by warrant under his hand and seal the Chief Justice, or one of the judges of the Supreme Court, to act as judge ordinary during such illness or absence, who, when so acting, shall have and exercise all the powers and jurisdiction which might have been exercised by the judge ordinary.

4. The Governor shall direct a seal to be made for the said court, and may direct the same to be broken, altered, or renewed at his discretion; and all decrees and orders, or copies of decrees, orders or proceedings of the said court, sealed with the said seal, shall be received in evidence.

5. The present registrar shall continue in office, and on any vacancy occurring the Governor shall appoint the registrar of the said court.

6. Either party dissatisfied with any decision of the court may, within fourteen days after the pronouncing thereof appeal therefrom to the judges of the Supreme Court, of whom three at the least in addition to the judge ordinary shall form a quorum, and on the hearing of any such appeal the Appeal Court may either dismiss the appeal or reverse the decree or remit the case to the court, to be dealt with as the Appeal Court shall direct.

Appeal within fourteen days.

7. After the period limited for appealing shall have expired, and no appeal shall have been presented against such decree of dissolution of marriage, or when any such appeal shall have been dismissed, or when on the result of any appeal any marriage shall be declared to be dissolved, and not sooner, it shall be lawful for the respective parties thereto to marry again; as if the prior marriage had been dissolved by death; but no minister shall be liable to any penalty for refusing to publish banns of marriage or to solemnize a marriage either after banns or by license in any case where either of the persons desiring to be married shall have been so divorced.

After decree of dissolution sustained on appeal, the parties may marry again.

No penalty for Minister refusing to marry such parties.

8. It is not intended by anything herein to abridge the jurisdiction of the court, as expressed in sections four, five and six, of chapter 126 of the Revised Statutes, hereby amended, but to extend to it certain powers conferred on the court for divorce and matrimonial causes in England, and to incorporate therewith as far as suitable and appropriate the principles and practice that prevail in that court; but no marriage shall hereafter be decreed to be null and void by reason of pre-contract.

Powers of Court similar to Court for Divorce and Matrimonial causes in England.

9. The court may if it shall see fit on any decree for dissolution of marriage, order that the husband shall to the satisfaction of the court secure to the wife such gross sum of money, or such annual sum of money, for any term not exceeding her own life, as having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties it shall deem reasonable, and in respect thereof shall have the like powers as are possessed by the said court in England.

The Court on decree of dissolution of marriage, may order husband to pay alimony.

10. The court shall have the same powers in respect of or as incidental to divorce and matrimonial causes, and the custody, maintenance and education of children as are possessed by the court for divorce and matrimonial causes in England, except as enlarged or abridged or altered or modified by this Act, and the Act hereby amended. But in causes instituted on the ground of adultery the court shall not have authority to permit the introducing co-respondents or to try the issue of fact by jury.

Powers of Court as to maintenance of children, &c., same as English Court except as altered by this Act. Co-respondents not admitted, nor trial of issue of fact by jury.

Examination of witnesses.

Rules of evidence of Supreme Court to be observed.

In cases of cruelty, husband and wife are competent witnesses.

11. The examination of witnesses shall take place before an examiner to be appointed by the court, unless oral examination shall be directed. And the rules of evidence observed in the Supreme Court shall be applicable to and be observed in the trial of all questions of fact in this court. And all acts of the Assembly that relate to the examining of witnesses *de bene esse*, or abroad, or the taking of evidence, or depositions, shall equally apply to this court as to the Supreme Court unless in cases where special exceptions preclude. But in proceedings by a wife by reason of adultery, coupled with cruelty, nothing in the forty-fourth or forty-sixth sections of chapter 135 of the Revised Statutes shall prevent the husband and wife respectively from being competent and compellable to give evidence of or relating to such cruelty.

* * * * *

Court shall make rules to come into operation when published in *Royal Gazette*.

13. The court shall make such rules and regulations concerning the practice and procedure of the court as it may, from time to time, consider expedient, and shall have full power from time to time to revoke or alter the same. But such rules shall not go into operation until they shall have been published in the *Royal Gazette*.

Judge Ordinary may sit in Chambers same as open Court.

14. The judge ordinary may sit at chambers when he shall deem it expedient to do so, and when so sitting shall have and exercise the same powers and jurisdiction in respect to the business to be brought before him as if sitting in open court. And the judge ordinary, when sitting in open court and at chambers, shall have and exercise the like authority and control over the persons appearing or practising before him as the judges of the Supreme Court have and exercise over persons appearing and practising before them therein.

The Court and Appeal Court may make orders regarding costs. No appeal for costs only.

15. The court, on the hearing of any suit, proceeding or petition, and the Appeal Court, on the hearing of any appeal, may make such order as to costs as to such courts respectively may seem just: Provided that there shall be no appeal on the subject of costs only.

Affidavits, &c., taken abroad admissible as evidence.

16. Affidavits, declarations or affirmations taken in such manner as to be used in the Supreme Court, whether taken in England or in any of Her Majesty's possessions, or in parts out of Her Majesty's dominions, may be received as sufficiently authenticated by the court, subject to the rules of the court.



30 VIC., CHAP. 27.

An Act to revest in the Crown certain public grounds in the Town Plot of Chester.

[*Passed the 7th day of May, A.D. 1867.*]

WHEREAS it has been agreed by the General Sessions Preamble.
of the Township of Chester that a certain piece of
ground, situate in the town plot, as is hereinafter described,
shall be appropriated for the purpose of erecting a Militia
Drill Shed ;

Be it therefore enacted by the Governor, Council, and
Assembly as follows :

1. One hundred and thirty feet, extending in depth Bounds of
along the line of the parsonage grounds, of the ground lands re-
allotted for a court house and jail in Chester, and sixty vested.
feet in width and fronting on the public road, is hereby re-
vested in the Crown, for the purpose of erecting a Militia or
Military Drill Shed.

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Excellent Majesty.



30 VIC., CHAP. 28.

An Act to vest in the Crown certain Public Lands in the Town of Lunenburg.

[*Passed the 7th day of May, A.D. 1867.*]

Preamble.

WHEREAS four lots of land situate in the Town of Lunenburg, viz.: Lots number six, seven, eight and nine, in Strasburg division, Letter D, on which a Militia Drill Shed is now being erected, were granted with other pieces of land in the year one thousand seven hundred and eighty-five to John Creighton and six other persons, their heirs and assigns, in trust for public uses; and whereas those trustees are long since deceased, and many inconveniences have arisen from the trust devolving on the heirs of such trustees;

And whereas an Act passed in the seventeenth year of Her Majesty's reign, chapter fifty-two, entitled "*An Act relating to certain public lands in the Town of Lunenburg*," empowering the Governor to appoint trustees of a certain portion of said lands as originally granted; but which Act does not affect the lots above named, to which no new trust has been created, and such lots have become neglected;

Be it therefore enacted by the Governor, Council, and Assembly as follows:—

Title to lots 6, 7, 8 and 9, vested in Crown for Militia and Military purposes.

1. The title to the said lots, numbers six, seven, eight, and nine, are hereby vested in the Crown, to be used for Militia or Military purposes.

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30 VIC., CHAP. 32.

An Act to amend Chapter 92 of the Revised Statutes,
“Of the Preservation of useful Birds and Animals.”

[Passed the 7th day of May, A.D. 1867.]

BE it enacted by the Governor, Council, and Assembly,
as follows :

* * * * *

7. The export from this Province of moose or cariboo hides is hereby prohibited and unlawful, and the hides attempted to be exported shall be forfeited, and the owner or person attempting to export the same shall, on conviction, be liable to pay a sum not to exceed five dollars on each hide, to be recovered in the name of any prosecutor in a summary manner before two Justices of the Peace, and, when recovered, to go to the prosecutor.

Export of
moose or
Cariboo hides
prohibited.

* * * * *

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Excellent Majesty.



ACTS
OF
NEW BRUNSWICK. .
REVISED STATUTES.

CHAP. 64.

OF RULES AND REGULATIONS.

Additional
powers of
Sessions.

1. The Sessions in addition to the powers otherwise conferred upon them, may make regulations for the following purposes, namely:—

* * * *

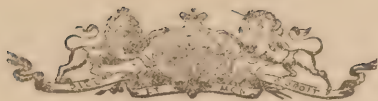
Twenty-fourth. For regulating the assize of bread.

* * * *

Thirty-first. For regulating the measurement of boards, shingles, lathwood, and other lumber, cordwood, and other fuel.

* * * *

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CHAP. 92.

OF THE REGULATION OF SALES OF LIME.

1. Every hogshead made for the purpose of carrying lime shall contain at least one hundred gallons, and every half hogshead at least fifty gallons, with the name of the manufacturer branded on the head ; and if any person shall make any hogshead or half hogshead of a smaller size, or shall neglect to brand the same before the lime is put in, he shall, for every offence, forfeit the sum of five shillings.

Lime hogshead, what to contain, &c., penalty.

2. If any person shall ship for exportation on board of any vessel, or sell any lime in hogsheads or half hogsheads of a smaller size, or not branded, such person and the master of the vessel shall each forfeit the sum of five shillings for every hogshead or half hogshead so sold or shipped ; but lime may be packed for sale or exportation in casks of a smaller size, if their contents have been ascertained by a sworn gauger, and marked thereon.

Shipping lime for exportation contrary hereto, penalty.

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CHAP. 93.

OF THE MEASUREMENT OF FIREWOOD AND BARK.

Mode of measuring firewood and bark.

1. All firewood and bark, when bought or sold by measurement, shall be measured by the cord, which shall be eight feet in length, four feet in breadth, and four feet four inches in height; or if measured in a vehicle, at the rate of one-quarter of a cord to each load; such load shall measure four feet in length, two feet and nine inches on an average in breadth, and three feet and three inches in height.

Regulation of vehicles for carrying same.

2. Every vehicle used for the measurement and carriage aforesaid shall be provided with stakes on each side, placed so as to leave two feet eight inches in width between the foremost stakes, and two feet ten inches in width between the two hindmost stakes; such stakes shall be three feet three inches in height from the floor of such vehicle, and no more, shouldered with a band of iron round the part which enters the mortice, and the mortice cased with iron; within two feet nine inches from the floor of such vehicle shall be an iron chain across the same, from one stake to the opposite one, to prevent their spreading. And such wood or bark shall be well stowed, and no higher than the tops of the stakes; and the upper surface of the wood or bark shall be level.

Penalties.

3. If any such vehicle shall not be in all respects according to the above requirements, or if firewood or bark shall be placed or measured on the same otherwise than is herein described, the owner or driver of such vehicle shall, for every time the same shall be so used, forfeit the sum of five shillings, to be appropriated one-half to the overseers of the poor where the offence is committed, and the other half to the prosecutor.

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CHAP. 96.

OF THE SURVEY AND EXPORTATION OF LUMBER.

1. No lumber of the description hereinafter mentioned shall, until the survey thereof as herein required, be shipped for exportation, under a penalty for each offence not exceeding fifty pounds nor less than five pounds. Lumber exported before survey, penalty.

2. The first general sessions in every year shall appoint in their respective counties a sufficient number of fit persons to be surveyors of lumber in such parts of their county as may be necessary; each of whom shall execute a bond to the Queen in the sum of one hundred pounds with two sureties, conditioned for the due performance of his duty, and shall take the following oath before the clerk or a justice of the peace for the county, he administering the same without fee, that is to say:— Appointment of Surveyors, &c.

“I, A.B., do swear that I will faithfully to the best of my ability, discharge the duties of a surveyor of lumber, and that I will give a true account of the number, dimensions and measurement of all such lumber as may be submitted to my inspection, according to the best of my knowledge and skill, and that I will not survey any lumber in which I may have a direct or indirect interest beyond the fees of survey, and that I will not change any lumber that may be intrusted to me for the purpose of being surveyed.”

The bond and affidavit to be filed in the said clerk's office, together with the private mark which the surveyor shall adopt; the clerk shall grant a certificate to every such surveyor of his having filed the affidavit and bond, and shall furnish him with a copy of this chapter at the expense of the Government; and no such surveyor shall be a pond-keeper, or directly or indirectly a dealer in timber.

3. Any surveyor may survey lumber in any part of the county in which he shall be appointed, and shall personally and carefully ascertain the qualities of the lumber submitted to his inspection, reject all such lumber as in his opinion may be contrary to the provisions of this chapter, so far as can be then ascertained, and, when required, furnish the buyer and seller each with a true account in writing of the number, length, and dimensions of the pieces of lumber found to be merchantable; if any dispute arise between the buyer or seller, and the surveyor. Duties of Surveyors. Disputes, how settled.

the person requiring a resurvey and the surveyor may each choose a disinterested surveyor duly appointed under this chapter, and the two surveyors so chosen shall name a third; or if the dispute arise between the buyer and seller, the person who shall have chosen the first surveyor may choose one other surveyor, and the other party two other disinterested and duly appointed surveyors; and in either of the above cases the three surveyors so chosen shall resurvey such lumber, and their decision, or the decision of any two of them, shall be final; and the person requiring such resurvey shall pay the expenses thereof in the first instance, but if the original survey be not confirmed, he may recover them from the first surveyor; and in case of any such dispute, if the buyer, or seller, or the surveyor, shall neglect or refuse, when called upon so to do, to name a surveyor as above required, it shall be lawful for the other party to name two disinterested surveyors, who shall choose a third, and proceed as above directed, and their decision, or the decision of any two of them, shall be final.

Surveyors neglecting duty, penalty.

4. If any surveyor pass any article of lumber contrary to the provisions of this chapter, he shall be liable to any person injured thereby for all damages by him sustained, and for the following penalties, namely:—

For every forty cubic feet of timber so passed, two shillings and six pence;

Every thousand superficial feet of plank, deals, boards or scantling, five shillings;

Every thousand superficial feet of saw logs, two shillings and six pence;

Every spar, one shilling;

Every thousand shingles, two shillings and six pence;

Every thousand staves, five shillings; and

Every cord of lathwood, two shillings and six pence.

If any such surveyor shall at any time wilfully change any lumber submitted to him for inspection or survey, he shall, upon conviction thereof, forfeit a sum not exceeding fifty nor less than five pounds; and if any such surveyor shall at any time be found guilty of wilful neglect or partiality in the execution of his duty, or of wilfully giving a false account of the lumber submitted to him for inspection or survey, the conviction for any such offence shall operate as a dismissal from office, and render him forever incapable of re-appointment.

Specification for merchantable square timber.

5. No square timber, except red pine, shall be less than ten inches square, nor shorter than sixteen feet; but white pine timber over sixteen inches square, and hardwood over twelve inches square, may be twelve feet; all which shall be squared and smoothly hewed, free from knotty tops, plugs, rots, rotten or concave knots, decayed, sap or worm holes, shall be square butted, the taper not to exceed one

inch for every eighteen feet in length, the wane not to exceed one inch in each corner where the square is under sixteen inches, two inches where it is from sixteen to twenty inches, and three inches where it is above twenty inches; in order to ascertain the contents of such timber, the surveyor shall girt or measure the same at the middle of the stick; and the difference of the squares between any two of the sides shall not exceed two inches; no log shall have a sweep unless it have two straight sides, and such sweeps shall not exceed the rate of five inches to every forty feet in length; but all pine timber over sixteen inches square, smoothly hewed, and free from the defects aforesaid, shall be deemed merchantable, if over twelve feet long; and in surveying round or sided timber in order to determine the quantity in tons, the surveyor shall allow the number of cubic feet which the stick will square.

6. In the survey of pine or spruce logs the following For saw logs. regulations shall be observed by the surveyors: Logs for the manufacture of deals shall not be less than twelve feet in length and eleven inches in diameter, shall have an allowance of from four to six inches in the lengths to permit the deals when sawed to be trimmed, shall be sound, free from bad shakes, auger or plug holes, crooked gum seams, ring or bowel shakes, rot, bad knots, and worm holes; all logs of twenty-six feet long and upwards shall be measured in two lengths; an adequate allowance shall be made by the surveyor on all crooked logs; the diameter at the small end, exclusive of bark, shall be taken as the diameter for ascertaining the contents, and the surveyor shall mark or scribe on every log surveyed by him the superficial contents thereof with his private mark, and the initials of the name of the purchaser. The contents shall be calculated by the following table, viz:—

Inches Diameter.	Lengths in Feet.												Contents.											
	12	14	16	18	20	21	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50			
11	60	70	80	90	100	105	110	120	142	154	164	176	186	198	208	220	231	242	252	264	286			
12	72	84	96	108	120	126	132	144	168	182	194	208	220	234	246	260	273	286	298	312	336			
13	84	98	112	126	140	147	154	168	196	212	226	242	256	273	287	303	318	333	347	364	392			
14	98	114	130	147	163	171	179	196	226	245	261	280	297	315	331	350	367	384	401	420	450			
15	112	131	150	168	187	196	205	224	259	280	299	320	336	360	379	400	419	439	458	480	515			
16	128	149	170	192	213	223	234	256	298	323	344	368	390	415	436	461	484	509	531	554	596			
17	149	174	198	223	248	261	275	298	346	374	398	427	452	481	506	534	562	590	613	642	690			
18	172	200	229	258	286	301	315	344	396	428	457	490	519	552	580	612	644	674	703	736	788			
19	196	228	261	294	326	343	359	392	453	490	523	561	594	631	663	701	736	771	804	842	903			
20	225	262	300	337	375	393	412	450	509	550	588	627	664	707	745	786	825	865	903	944	1,003			
21	247	288	327	370	411	432	453	494	560	605	644	689	732	778	829	864	908	951	992	1,038	1,104			
22	272	317	362	408	453	476	498	544	614	653	698	738	784	853	898	948	995	1,042	1,088	1,138	1,208			
23	297	336	376	445	495	519	544	594	660	716	756	808	877	931	981	1,035	1,088	1,138	1,188	1,242	1,308			
24	324	380	432	486	540	569	594	648	730	788	840	898	952	1,011	1,065	1,123	1,181	1,235	1,289	1,348	1,430			

7. All deals and battens for exportation shall be surveyed and classed according to their qualities, and on each deal and batten shall be marked with red chalk, in legible figures, No. 1, 2, or 3, as the case may be, and also the length, breadth, thickness, and denominational or standard dimensions of twelve, fourteen, sixteen, eighteen, twenty, twenty-one, twenty-two, twenty-three, and twenty-four feet long; the standard breadth of deals to be nine inches and eleven inches broad, thickness three inches, with an addition of one inch on the length, and not more than three-eighths of an inch on the breadth, and not more than one-quarter of an inch on the thickness, to be trimmed at both ends, contents to be in superficial feet of one inch; battens to be of the same length as deals, with the same addition in length, breadth, and thickness, trimmed at the ends, the standard breadth to be seven inches, and thickness three inches, and two and a half inches, to be of the same description in quality as deals; that first quality number one or merchantable spruce deals shall be square edged from the saw, with an addition of one inch on the length, to be trimmed square at each end, straight, smooth, and well sawed, free from rot and every description of bad knot, rotten, loose, or black knots, shakes, splits, sap stain, gum seam, and gum galls, plugs, worm holes, and auger holes, and shall not have more than three sound knots, not exceeding one inch in diameter, on any one surface and edge, on a twelve, nine, three deal, and not more than four sound knots of one inch in diameter in twelve, eleven, three deal, and for every additional two feet in length, one knot as before described in addition, allowing all the sound knots less than one inch; all clear deals of the aforesaid dimensions, not having more than three-quarters of an inch wane on the diagonal on one edge of the deal, and free from dark sap, to be classed as number one or first quality.

For deals and
battens, &c.

Number one or first quality spruce battens to be of the dimensions hereinbefore mentioned, and to have the allowances and to be in all respects of the same quality, as number one deals.

Number two or second quality spruce deals shall be of the same dimensions as number one, with the addition of deals of ten feet in length, with trimming, thickness, breadth and allowances as in number one, free from rot, rotten knots, bad shakes, rents or splits, auger holes, bad or large worm holes, allowing wane on the edge not more than three-quarters of an inch at the widest part, and not to have more than three knots of one inch and a half in diameter on the surface and edges, which may contain the greatest number of knots, all smaller sized knots allowed as in the case of number one deals; all clear deals which may have wane exceeding three-quarters and not exceeding one inch and a half on the diagonal on the edge, classed as number two or second quality.

Number two or second quality battens to be the same as number two deals, excepting that no wane shall be allowed, and the knots in proportion as in number two deals.

Number three or third quality spruce deals shall in clue all deals of ten feet in length and upwards, and nine inches and eleven inches in width, and three inches in thickness.

Number three or third quality battens shall include all battens of ten feet in length and upwards, seven inches in width, and three inches and two and one-half inches in thickness; both deals and battens of the third quality shall be free from bad rots, splits, loose splinters, auger holes, and wane exceeding two inches on the diagonal on one edge.

All deals and battens not classed in the foregoing description shall be taken and deemed refuse, and marked "R" in addition to the mark of contents.

All pine deals and battens to be of the same description in quality, and classified as spruce deals and battens, and marked "P" in addition to the contents.

All pine and spruce deals and battens classed as number one, two and three, shall be free from stub shot.

And all deals and battens not of the length and breadth, hereinbefore described as the standard dimensions, but in all other respects equal in quality with number one, two or three, shall be classed as number one, two or three, as the case may be, non-dimension deals or battens.

First quality or merchantable pine and spruce boards and plank shall not be less than ten feet in length nor less than seven inches in breadth, and not less than seven-eighths of an inch in thickness for boards, and one and one-half of an inch and two inches for plank, shall be square edged from the saw, free from rot, sap stain, bad knots of every description (allowing two sound knots not over two and a quarter inches in diameter, and all knots under that size that are perfectly sound), rents and shakes, worm holes, gum seam and gall, auger holes, and to be of equal thickness on both edges from end to end, with an allowance of one-half of the straight split to the length of two feet.

Second quality pine and spruce boards and plank shall be in size same as first quality, and in quality same as number two deals, excepting the wane, which shall not exceed two-thirds the length of the board or plank.

All boards and planks not classed as number one or two shall be deemed refuse.

Clear boards—Pine may be sawed out of the round log, without edging (optional with the party manufacturing the same), to be free from rots, knots, rents, shakes, worm holes, auger holes, gum seam, and gum gall, the width for measurement to be taken at the centre, inside of and not including the wane and dark sap.

Masts shall not be less than three feet and one quarter in length to every inch in diameter, to be hewed smoothly, reduced sufficiently to show the wood free from sap on the

centre of all the four sides at the partners, to be as small at the but as at the partners, and of proportionate and full size at the top, to be straight, free from rot, ring shakes, butt rots, concave or rotten knots, large knots at the top, bark on the waness, auger holes and other defects, to be square butted, the diameter for measurement to be taken one third from the butt, exclusive of sap.

Spars shall be of straight growth, free from large knots, rots and other defects, to be of proportionate size at the top with the but, to be square butted, and the diameter for measurement to be taken one-third of the length from the but, exclusive of bark, and to be four and one-half feet in length for every inch of diameter where the spar exceeds nine inches diameter, and five at least for all spars under nine inches diameter.

Lathwood shall be of straight rift, free from bark, hearts, knots and rots, to be measured by the cord of four feet high and eight feet long, and piled as close as it can be laid.

Pine shingles shall be eighteen inches long, not less than four inches wide and three-eighths of an inch thick at the but, free from sap, rot, and worm holes, to be put up in bundles not less than twenty-five tiers or courses of twenty inches wide, four of which bundles shall be reckoned a thousand.

Cedar shingles for exportation shall be twenty inches long and three-eighths of an inch thick at the but, the said thickness to be continued three-fourths of the length and shaved from thence to the point; to be from four to four and a half inches in width, and the account shall be taken by tale of ten hundred to the thousand, and that all pine shingles manufactured in the same manner for exportation shall be subject to the like rules and regulations; the whole of which cedar and pine shingles for exportation to be free from the defects above mentioned relative to shingles.

Hogshead staves shall be forty-two inches long, three-fourths of an inch thick on the thinnest edge, and not exceeding one and one-eighth inches thick on the back, and shall also be from three and one-half to five and one-half inches wide.

Barrel staves shall be thirty-two inches long, half an inch thick on the thinnest edge, and not exceeding seven eighths of an inch thick on the back; the whole to be of good rift, free from twists, fairly split, and free from knot holes, rotten knots, worm holes, and shakes; and the account of all staves shall be taken by tale of twelve hundred to the thousand.

8. Nothing in this chapter shall prevent the exportation of lumber of other qualities than merchantable, if it be actually shipped and marked as it passed examination.

When unmerchantable may be exported.

Regulations
as to mark-
ing, fees, &c.

9. Every surveyor under this chapter shall mark or score in large and legible figures or characters on one of the sides of each piece of timber inspected by him, near the but end, his own mark, the length, the purchaser's mark, and the contents, and at the place of girding the same the girt thereof for measurement; masts and spars to be marked in the same manner, having instead of the contents, the diameter at the partners; and every such surveyor for his skill and labour in surveying, marking, and resurveying, shall be entitled to demand and receive after the following rates:—

	£	s.	d.
For every ton of forty cubic feet of square timber	0	0	4
Every thousand feet of saw logs.....	0	0	9
Every thousand feet of deals, plank, scantling, or boards.....	0	1	0
Masts under 17 inches diameter.....	0	1	6
do over the same.....	0	2	0
Spars under 9 inches.....	0	0	2
do over the same	0	0	4
Lathwood, per cord.....	0	1	3
Pine or cedar shingles, per thousand...	0	0	6
Hogshead staves, per thousand.....	0	3	0
Barrel staves, per thousand.....	0	1	6

Fees, by
whom pay-
able, and pro-
ceedings
when lumber
unmerchant-
able.

10. The rates aforesaid for the survey of merchantable lumber, shall be paid by the first buyer thereof after the survey, if it be purchased within four months thereafter, but if not, the surveyor shall be paid by the person employing him, and the seller shall remove at his own expense whatever may prevent the surveyor from ascertaining with facility the measurement, manufacture, or quality of any article of lumber, and when required shall cause the same to be canted; but if he refuse or neglect to do so, the surveyor or buyer may cause it to be done, and charge the seller with the necessary expense, which may be recovered in any court of competent jurisdiction.

Regulations
as to lumber
afloat proving
unmerchant-
able.

11. When any lumber measured afloat shall afterwards prove unmerchantable, the purchaser shall give the seller or his agent at least ten days' notice to that effect, and if the same be not removed within the time of such notice, the purchaser shall call on the surveyor who first measured such lumber, or upon some other surveyor, who shall examine the same, and take an account of the marks and contents thereof, and the purchaser shall cause such lumber to be put in merchantable order, under the superintendence of such surveyor, by having it overhauled, lined, hewed, sawed, or repaired, in any way that may be thought advisable by such surveyor, and the purchaser may charge the seller with the expense thereof, and with any deficiency in

such lumber, which shall be estimated and kept account of by such surveyor; but no purchaser of any lumber, after having had the same in his possession more than twelve months, shall have the same repaired or resurveyed at the risk or expense of the seller. The seller of any lumber, if he reside more than twenty miles from the place of sale, shall at such sale appoint an agent, to be notified to the purchaser, to attend to such unmerchandiseable lumber; but the provisions of this section shall not extend to pine and spruce saw logs.

12. If any person shall adopt or use the private mark of any surveyor under this chapter, by placing the same upon any piece of timber, scantling, mast, spar, or other article of lumber, or shall be guilty of plugging or wedging any timber, spars, or masts, for the purpose of covering thereby any defects in the same, or shall measure or survey any lumber intended for exportation, before filing the bond and affidavit required as aforesaid, he shall on conviction forfeit the sum of five pounds for each offence. Penalty for certain offences.

13. All prosecutions for penalties imposed by this chapter shall be commenced within twelve months after the offence committed; and the penalties when recovered shall be paid, one-half to the person who shall sue for the same, and the other half to the overseers of the poor of the parish where the offence is committed, for the use of the poor. Limitation of action, and application of penalty.

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CHAP. 116.

OF BILLS, NOTES, AND CHOSSES IN ACTION.

* * * *

Notes negoti-
able.

2. A note in writing for money, payable to order or bearer, shall be assignable and endorsable in the same manner as an inland bill of exchange is by the custom of merchants; and the payee, endorsee, or holder thereof, may maintain an action thereon in his own name.

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CHAP. 119.

OF CORPORATIONS.

1. Every corporation shall, where no other provision is specially made, be capable in its corporate name to sue and be sued, to have a common seal and alter the same at pleasure, to hold real and personal estate, to elect necessary officers, fix their compensation and define their duties, and to make by-laws not contrary to law, for their own government, the management of their affairs, and the transfer of their stock.

Corporations,
their powers.

2. The shares or stock of every stockholder in every incorporated joint stock company shall be personal estate, and liable to be seized and sold as such, but the officer executing the execution shall leave a certified copy thereof with the clerk, secretary, treasurer or cashier of the corporation, who shall give the sheriff a certificate of the number of shares held by such execution debtor; and the shares therein so liable shall be deemed seized when such copy is left, and shall be sold within thirty days thereafter; and on producing a bill of sale from the sheriff, the officer of the corporation whose duty it is to register the transfer of shares, shall transfer to the purchaser the shares so sold, which shall be valid, though the person whose stock was sold may be indebted to the corporation; but such stock shall not be bound until the actual seizure thereof, and no fractional part of a share shall be sold.

Shares may be
taken on ex-
ecution.

Sheriff's duty.

Rights of pur-
chaser.

3. No corporation shall issue notes or bills for payment of money, or engage in banking business, unless incorporated for banking purposes.

What corpor-
ations may
issue notes
and bills.

4. All corporations whose charters, after they shall have gone into operation, shall expire by their own limitation, or be annulled by forfeiture or otherwise, shall, nevertheless, be continued as bodies corporate for the term of three years after the time when they would have been so dissolved, for the purpose of prosecuting or defending suits by or against them, and of enabling them to settle and close their concerns, to dispose of and convey their property, and to divide their capital stock.

Corporation,
continuance
of powers,
&c., when.

Validity of
contracts
without seal.

5. The contract of the agent of any corporation within the scope of his authority, and the acts of a corporation shall be valid though not authenticated by their seal.

Acts of incor-
poration,
from what
time amend-
able, &c.

6. Acts of incorporation passed since the first of January, one thousand eight hundred and thirty-six, may be amended or repealed at any time.

Contract of
foreign cor-
poration, how
proved.

7. Upon the trial of any issue joined, when it may be necessary to prove the contract of a foreign corporation entered into in this Province by their accredited agent, proof that it was executed or issued by such agent shall be evidence of the execution thereof by the corporation.

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CHAP. 120.

OF BANKING.

1. Every bank legally incorporated in this province, Banks, power to issue notes. whether authorized by charter or not, may issue notes or other evidences of debt to the amount of five, ten or fifteen shillings, but no other fractional part of a pound.

2. Every banking corporation violating any of the provisions of this chapter, shall for every offence forfeit the Penalty, for what offences. sum of twenty-five pounds; and whoever shall receive any note or evidence of debt herein prohibited shall forfeit a sum equal to the nominal value thereof.

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4. One-half of the said penalties to be paid to the prosecutor, and the residue to the overseers of the poor of the Penalties, application. parish where the offence was committed.

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CHAP. 122.

OF DAMAGED GOODS.

Damaged goods, when and how sold, proceedings.

1. All damaged goods sold on account of the insurers, or persons interested, shall, upon the first unlading thereof, or as soon thereafter as they are discovered to be damaged, be surveyed by a shipmaster unconnected with the vessel, and one or more of the wardens of the port, who shall determine if they have been properly stowed; the sale shall be made after twenty-four hours' public notice thereof, in their presence, at public auction, in the most public and convenient place, between the hours of eleven in the morning and three in the afternoon, which shall only be of goods really damaged, and in such quantities at a time as they shall think best for the interest of the parties; and the person who orders the sale shall at the time produce the original invoice of such goods as he shall direct to be sold, unless he make oath that no such invoice has come to hand, and the master or wardens shall give a certificate of the facts.

Compensation to master and wardens.

2. The master and wardens shall each receive seven shillings and sixpence a day for their services, and five shillings shall be paid for every certificate by the person at whose request the sale is made.

Penalty for violation.

3. If any auctioneer, master or warden violate any of the provisions of this chapter, he shall forfeit the sum of twenty pounds for every offence, to be paid to the treasurer of the county where the offence was committed. If any person shall make any sale of damaged goods, or any demand for a loss, without complying with the provisions of this chapter, he shall forfeit double the value of the goods.

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CHAP. 124.

OF INSOLVENT CONFINED DEBTORS.

1. Any person confined in gaol or on the limits in any civil suit, unable to obtain his support, may apply to a judge of the Supreme Court, or justice of the Inferior Court with any justice of the peace, for weekly support, and, on seven days' notice to the opposite party or his attorney, he shall be examined before such judge or justices on oath as to his ability to support himself; if satisfied that such person cannot support himself by labour or otherwise, that he has no property real or personal, that since he was served with the first process in this suit he had not directly or indirectly transferred any property real or personal, intending to defraud the person at whose suit he is confined, or given any undue preference, such judge or justices shall make an order for payment by the suitor of five shillings per week to the debtor, the first payment to be made as may be directed; on failure of payment between sunrise and sunset of the day ordered, the judge or justices shall by order in writing discharge the debtor from confinement as to that suit, on production of which to the gaoler the debtor shall be forthwith discharged without payment of any fees whatever.

Who may apply for weekly support. Proceedings.

2. No discharge under any of the provisions of this chapter shall prevent the plaintiff proceeding to final judgment, or issuing execution against the property of the debtor, or recovering the amount of the judgment, but the person of the debtor so discharged shall be freed from arrest for the same cause. The examination mentioned in the preceding section shall be filed in the office of the clerk of the court out of which the process issued.

Discharge, effect of.

3. Should the judge or justices, or either of them, not attend at the time and place specified in the notice, any other person authorized to take such examination may attend in his or their stead, and proceed therewith, and grant or refuse relief under this chapter; an entry shall be made, in the minutes of the examination, of the same having been taken by him or them in lieu of the person or persons who issued the notice.

Who may take examination.

When one
Justice to act.

4. The provisions of this chapter shall also extend to persons confined upon process in civil suits issued by a justice, the proceedings to be had before any one justice.

Who not
liable for an
escape.

5. The judge or justices shall make an order in writing, directing the sheriff or gaoler to bring the debtor before them at the time and place specified therein for examination, and such sheriff or gaoler shall not be liable for acting in obedience to such order.

Who may
issue sub-
pœnas. Wit-
nesses' duty.

6. Either party may issue subpœnas out of the court from which the process issued, which shall be served and the witness tendered his reasonable expenses; the person served therewith shall be liable to the same punishment and damages for wilfully disobeying the subpœna as in other cases.

When debtor
may sell his
property, &c.

7. If any confined debtor shall be possessed of property, and shall have offered to pay or assign the same to the suitor, or if there be several suitors, to them respectively in proportion to their demands, and the suitor or suitors, or either of them, refuse to accept, the person so confined shall sell by public auction, first giving seven days' public notice of such sale, and also seven days' notice thereof to the parties or their attorneys, and upon tender of the proceeds, and refusal by either of them to accept, he may pay the same to any creditor, or creditors, and shall then be entitled to the benefit of this chapter.

When orders
may be sus-
pended, &c.

8. When it shall be made to appear to the judge or justices who ordered the support, or to any other judge or justices, that the debtor can support himself, such judge or justices shall suspend such support until further order; no order for suspending the payment of the allowance shall be made unless due notice be given to the debtor of the application for suspension, the debtor to be brought before the judge or justice in the manner prescribed in section five of this chapter.

* * * * *

When debtor
discharged
after support.

10. Any debtor receiving such weekly allowance for the space of six months, shall then be discharged by the judge or justices who made the order, or any other judge or justices.

Creditor, &c.
discharging
debtor, effect
of.

11. Any creditor and his representatives, may consent in writing to the discharge of their debtor from custody, without losing the benefit of the judgment and execution thereon, against the property of the debtor; and the sheriff, upon being served with such consent, shall forthwith discharge the debtor from custody.

12. In case of the discharge of any debtor under the provisions of this chapter, all persons shall be indemnified, and are hereby freed from all suits and judgments whatsoever that may be had or adjudged against them by reason of such discharge.

Discharge of
debtor, who
indemnified.

13. When any person is or may be arrested, the sheriff shall permit such person to have the liberty of the limits designated for such gaol, upon his giving the said sheriff a bond with two sufficient sureties in double the amount of the sum for which he is in custody, in the following form:—

Limits, when
allowed.

We (here insert the names and additions of the obligors) are jointly and severally bound unto _____, sheriff of _____, in the sum of _____, to be paid to the said sheriff.

Sealed and dated this _____ day of _____, A.D. 18 _____.

Whereas the said sheriff hath permitted the said _____, being in his custody at the suit of A. B., to have the liberty of the limits of the gaol of _____ County;

Now the condition of the above obligation is, that if the said _____ shall not go out of the said limits, or escape at any time while he has such liberty, then this obligation to be void, otherwise to be in force.

Signe^d, sealed and delivered }
in presence of }

For which bond the sheriff shall receive five shillings and no more; and the sheriff or his deputy, at the request of the plaintiff or his attorney, shall assign the same to the plaintiff in the action by endorsement under his hand and seal; the plaintiff may, if the bond be forfeited, bring an action thereon in his own name. The court where the action is brought may give such relief to the parties as is agreeable to justice, and the same shall have the effect of a defeasance to the bond.

Bond assign-
able, how.

Relief of obli-
gors.

14. Should the sheriff, or his successor, require a new bond from any debtor on the limits, the same shall be given by the debtor as if he were in actual custody, and on neglect, such sheriff or his successor may commit such debtor to gaol.

New limit
bond when
demandable.

15. The possession by the debtor of wearing apparel and bedding, kitchen utensils, and tools of his trade or calling to the value of fifteen pounds, shall not prevent him having the benefit of this chapter, nor shall the same be taken in execution.

Property,
debtor allow-
ed to retain

16. No sheriff or gaoler shall be liable to an action for acting in obedience to any order made under the provisions of this chapter. If sued he may plead the general issue and

When Sheriff
not liable,
plea, &c.

give such order in evidence, nor shall he be liable to an action of escape for liberty granted to any debtor under the provisions of this chapter, unless the debtor go beyond the limits.

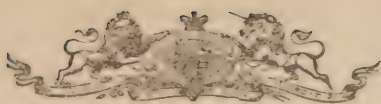
Render of
debtor.

17. Any debtor having the liberty of the limits may render himself, or be rendered by his surety, to prison, in discharge of the limit bond.

Power of the
Mayor or Re-
corder of the
City of Saint
John.

18. The mayor or recorder of the city of Saint John shall carry into execution, in the City and County of Saint John, the several provisions of this chapter.

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CHAP. 127.

OF HABEAS CORPUS.

1. If the person to whom any writ of *habeas corpus* is directed, shall, upon personal service thereof, or leaving it at the place where the party is confined with the servant or agent of the person so confining, disobey the same, he shall be guilty of contempt, and the justice before whom the writ is returnable may, upon proof thereof by affidavit, issue a warrant to apprehend and bring such person before him, or some other such justice, that he may enter into recognizance with two sureties, to appear at the next term to answer the contempt, and in case of refusal to become bound, to commit such person to gaol, there to remain until discharged by the court or a judge, and the recognizance shall be filed and continue in force until the court shall make an order therein; but if the writ shall be awarded so late in vacation that, in the opinion of the judge, it cannot then be executed, it may be made returnable on some day in term, and in case of disobedience thereto, the court shall proceed in the same manner as if the writ had been awarded by the court; if it be awarded late in the term, it may be made returnable on a day certain in vacation before any judge of the court, who shall proceed thereon in all respects as for writs issuing and returnable in vacation.

Duty of persons served with *habeas corpus*. Neglect, proceedings.

2. If the return of the writ of *habeas corpus* is sufficient in law, the justice before whom it is returnable may proceed to examine into the truth of the facts set forth therein, and into the cause of such confinement, by affidavit, and may do therein as to justice shall appertain. If the writ shall be returned before a justice, and it appears doubtful whether the material facts set forth in the return are true, he may admit the confined person to bail to appear in the Supreme Court upon a certain day in term, which shall continue in force until the court shall make an order therein; and the judge shall transmit to the court the written return, recognizance, and affidavit, and the court shall proceed in a summary way, by affidavit, to examine into the facts stated in the return, or shall direct an issue for the trial thereof, and shall deal with the party in the meantime as may appear just; and when the writ is awarded by and returnable into the court, the like proceedings may be had.

Proceedings on return.

Costs.

3. The court or justice shall direct the payment of the expenses of bringing up the party and returning him to custody if remanded, and for non-payment shall award process of contempt, the proceedings to be as in other cases of contempt for non-payment of money.

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CHAP. 140.

OF THE LIMITATION OF PERSONAL ACTIONS.

* * * * *

2. No action for any sum of money given to the party aggrieved, by any Act or Statute, or for any penalty, shall be brought but within two years after the cause of action, unless the time is otherwise limited by the Statute. Actions for penalties.

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CHAP. 144.

OF OFFENCES AGAINST RELIGION.

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Desecrating
the Lord's
Day.

2. Whoever shall openly desecrate the Lord's Day commonly called Sunday, by shooting, gaming, sporting, playing, hunting, drinking, or frequenting tippling houses, or by servile labour (works of mercy or necessity excepted), shall for every offence pay a fine not exceeding forty shillings, or be committed to gaol for a term not exceeding four days.

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CHAP. 145.

OF OFFENCES AGAINST PUBLIC MORALS AND DECENCY

* * * * *

2. Whoever shall commit incest, shall be guilty of a mis- Incest.
demeanor, and be imprisoned for a term not exceeding
fourteen years.

3. Whoever shall commit adultery, shall be guilty of a Adultery.
misdemeanor, and shall pay a fine not exceeding one hun-
dred pounds, or be imprisoned for a term not exceeding two
years.

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Excellent Majesty.



CHAP. 161.

OF TERMS, EXPLANATIONS AND GENERAL PROVISIONS.

IN the construction of all Acts of Assembly, the following rules shall be observed with respect to the following terms, unless otherwise expressly provided for, or such construction would be inconsistent with the manifest intention of the Legislature, or repugnant to the context, that is to say :—

Authority,
what to in-
clude.

1. Authority to appoint shall include authority at any time to displace and re-appoint ; and such authority shall extend as well to any case of death, as to a refusal or neglect to accept the office or to act therein.

Authority to
Justice, when
majority may
act.

2. Authority to a justice of any court to do an act, shall empower any other justice of the same court to act in his stead when necessary ; and authority to hear shall include power from time to time to adjourn.

Authority to
a number,
majority to
act.

3. Authority to three or more persons jointly empowered to act, shall enable a majority of them to act.

Assizes and
other Courts
included un-
der what.

4. “ Assizes ” shall include Courts of Oyer and Terminer and General Gaol Delivery, and *Nisi Prius* shall mean any Circuit Court or sitting after term, and “ Circuit Court ” shall include all the said courts.

Bonds, public,
how to be
taken.

5. Bonds when required to be given by a public officer, shall be taken in the name of the Queen.

By-laws,
&c., when to
be altered,
&c

6. By-laws, rules, orders and regulations, when authorized to be made, may be altered or revoked, and others made whenever necessary, but none shall be enforced if repugnant to law.

Conveyance,
what to
mean.

7. “ Conveyance ” shall mean any instrument by which any freehold, leasehold estate, or interest in real estate, may be transferred or affected.

Clerks, &c.,
how may act.

8. Clerks and other ministerial officers appointed by Government, when required to act, may do so by deputies, subject to the approval of the Governor in Council, and the principal shall, in all cases, be responsible for the acts of his deputy.

9. "Captain" or "master" shall mean the officer or person in command, or in charge of any company, vessel or other thing. Captain or Master, meaning of.

10. "County" shall include city and county; and wherever any county or parish shall be bounded by any sea, bay, gulf or river, it shall extend into such sea, bay, gulf or river, to the boundary of the Province, or of the adjoining county, running out the side lines thereof in the same manner as if it were land. County, what, and extent.

11. Any matter required to be done by or with Her Majesty's Council, or any member thereof, without specifying the Legislative Council, shall be done by or with the Executive Council, or any member thereof, as the case may be, excepting only such matters as belong to the Legislative Council or the members thereof, as a branch of the Legislature. Councils, Legislative and Executive.

12. "Dealt with," when used in connection with offences, shall include all proceedings necessary for the indictment, trial, relief, and punishment of the offender. "Dealt with," what to mean.

13. Every word importing the singular number may extend to several persons or things as well as to one person or thing; and importing the plural number, to one person or thing as well as to several persons or things; and importing the masculine gender, to females as well as males. Certain words what to import.

14. "Executor" shall include administrator. "Executor," what to mean.

15. "Estate" or "property" shall mean real and personal estate; and "real estate," "land," or "lands," shall include lands, houses, tenements, and hereditaments, all right there-to and incident therein. Estate, and other words, what to include.

16. "Folio" shall mean one hundred words. Folio, what.

17. Forms, when prescribed, shall admit deviations not affecting the substance, or calculated to mislead. Forms, what deviations.

18. "Governor" shall mean the Administrator of the Government for the time being; and "Governor in Council" the act of such Administrator, with the advice and consent of the Executive Council. Governor and Governor in Council, what to mean, and how to act.

19. "Grantor" may include every person from whom, and "grantee" every person to whom, any freehold estate or interest passes by deed. Grantor and grantee as to estates.

20. "Goods" shall include chattels, and every description of personal property. Goods, what to mean.

- 21.** "Gaol" shall mean the gaol of the county where the offender or person may be proceeded against.
- 22.** "Her Majesty," or "The Queen," shall include Her heirs and successors.
- 23.** "Highway" or "road" shall signify any public highway, road, or bridge.
- 24.** "Issue" shall mean all the lawful lineal descendants of the ancestors.
- 25.** "Indictment" shall include information, inquisition, or presentment.
- 26.** "Justice" shall signify any justice of the peace for any city, county, or city and county.
- 27.** "Lumber" shall signify timber, masts, spars, posts, poles, knees, futtocks, deals and deal ends, logs, plank, boards, scantling, clapboards, laths, staves, and shingles, and any other article or thing cut or sawed from wood.
- 28.** "Month" shall signify a calendar month, and a year twelve calendar months.
- 29.** Officers appointed and to be appointed by the Governor, or Governor in Council, shall remain in office during pleasure.
- 30.** "Oath," or "sworn," or "affidavit," shall include declaration or affirmation in the case of Quakers or Moravians, or wherever by law declarations or affirmations may be substituted for an oath; which oath, declaration, or affirmation, may be administered by any justice of the Supreme Court, the Master of the Rolls, or any Commissioner for taking affidavits in the Supreme Court, or by any justice of any court in which, or before a judge of which, the same is to be used, or by any person before whom the party is by law authorized or required to make any statement on oath; a justice of the peace may also administer an oath, or take an affirmation or declaration in any matter over which he has jurisdiction, may swear appraisers, petitioners on petitions to any public individual or body, or inventories, or accounts rendered to the executors of an estate, or the like; any person holding an enquiry by authority of an Act of Assembly, or of the Government, may also administer an oath, declaration, or affirmation, if directed.
- * * * * *
- 31.** "Overseers of the poor" shall apply to any persons having charge by law of the poor.

32. Penalties, where no particular mode may be prescribed for the recovery thereof, may be recovered with costs in the name of any one to whom the same or a part thereof may be payable, or if not payable to any one, in the name of any person who will sue therefor, where the penalty shall not exceed ten pounds before a justice, where twenty pounds before two justices, under the chapter relating to summary convictions before justices out of sessions, the nature of the offence being briefly stated; and where no particular mode of applying any penalty shall be prescribed, one-half thereof shall be paid to the person suing for the same, the other half to the overseers of the poor of the place where the offence was committed, for the use of the poor; wherever offences punishable as a misdemeanor, imprisonment, or fine, the fine may be recovered in the manner herein mentioned instead of proceeding by indictment, at the option of the prosecutor. Penalties imposed shall not relieve parties from liability for damages, and an appeal from the conviction of a justice or justices shall be made in the same manner as from a judgment in a civil suit as directed in title thirty-seven, chapter one hundred and thirty-seven.

Penalties,
recovery of.

33. "Proper officer" shall mean the chief officer of the department, or of any officer in the department established at a different place from that of the principal, or of any person authorized by law to act in his stead.

Proper officer,
shall mean
what.

34. "Person" may include any body corporate, company, or society not corporate.

Person, to in-
clude what.

35. Parts, titles, chapters and sections of this and all other Acts, shall be deemed as much a part thereof as if enacted; and capital letters and numbers inserted in the sections shall be taken as referring to forms in the schedules having the like letters or numbers at the head thereof, and shall with the forms, letters, numbers, and matters connected therewith explain the meaning and form a part of such sections.

Parts and
other divi-
sions of Acts,
effect of.

36. "Parish" shall include any city or town.

Parish, what
to mean.

37. Quakers or Moravians may affirm in all cases where by law an oath is prescribed, and the affirmation shall have the like effect, and if false, be subject to the like pains as in cases of oaths.

Quakers or
Moravians
affirming,
effect of.

38. "Representatives" may mean executors and administrators.

Representa-
tives, what to
mean.

39. "River" may mean creek, stream or brook.

River, mean-
ing of.

40. "Sessions" shall denote the Court of General or Quarter Sessions of the Peace for the county; and "Special

Sessions, and
Special Ses-
sions, what to
denote.

Sessions" shall denote a special session of the peace for the same county.

Sureties and security, what to mean.

41. "Sureties" and "security" shall in both cases mean that the same shall be sufficient.

Sheriff, when other officer to act.

42. "Sheriff" shall mean coroner, or other officer or person authorized by law to act when the sheriff is interested, or the office may be vacant.

Ship or vessel, what to mean.

43. "Ship" or "vessel" may mean any description of vessel or boat, impelled by sails, steam, or otherwise.

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CHAP. 162.

OF THE PROMULGATION AND REPEAL OF STATUTES.

- 1.** All Acts shall be deemed public, and may be declared on and given in evidence without being specially pleaded. All Acts to be deemed public.
- 2.** The clerk of the Legislative Council shall endorse on every Act the date of its passage, and the endorsement shall be held part of the Act, and shall be the date of its commencement, unless otherwise provided. Clerk of Legislative Council to endorse date of passing.
- 3.** Printed copies of Acts, or of rules and regulations made under any of them, published in the *Royal Gazette*, purporting to be published by the Queen's printer for the province, shall be evidence of such Acts. Printed copies in *Royal Gazette* to be evidence of Acts, Rules, &c.
- 4.** Any Act may be altered or repealed during the session in which it may have passed. Acts may be altered, &c., the same Session.
- 5.** No Act, or portion of an Act, heretofore or hereafter repealed, shall be revived, unless by express enactment. No repealed Act to be revived by a subsequent repeal.
- 6.** No law of the Nova Scotia Legislature, passed prior to the erection of this province, shall have any force herein. Nova Scotia Laws not in force in this Province.
- 7.** Where an Act has been, or shall be repealed, wholly or in part, and other provisions substituted, all persons, bodies politic or corporate, acting under the old law, shall continue to act as if appointed under the new law, until others are appointed in their stead; and all proceedings taken under the old law, shall be taken up and continued under the new, when not inconsistent therewith; and all penalties and forfeitures may be recovered, and all proceedings had in relation to matters which have happened before the repeal, in the same manner as if the law were still in force, pursuing the new provisions as far as they can be adapted to the old law. An Act passed with other provisions substituted, old appointments to be good.
- 8.** The repeal of an Act at any time shall not affect any act done, or any right or right of action existing, accruing, accrued, or established, or any proceedings commenced in a civil cause, before the time when such repeal shall take effect, but the proceedings in such case shall be conformable when necessary to the repealing Act. Repeal of Act not to affect anything done under it.

No offence, or forfeiture, or suit pending, to be affected by repeal.

9. No offence committed, and no penalty or forfeiture incurred, and no proceeding pending under any Act at any time repealed, shall be affected by the repeal, except that the proceedings shall be conformable, when necessary, to the repealing Act; and that where any penalty, forfeiture, or punishment shall have been mitigated by any of the provisions of the repealing Act, such provisions shall be extended and applied to any judgment to be pronounced after such repeal.

Rules and regulations to continue valid after repeal.

10. All rules and regulations made under any Act before the repeal thereof shall continue valid until altered or annulled.

Appointments and securities to continue valid after repeal.

11. All appointments, and all bonds and securities, given by the parties appointed under any Act at any time passed and repealed, shall not be affected thereby, but remain in full force; and all offices, establishments, books, papers, and other things, made or used under any repealed Act, shall continue as before the repeal.

Bonds to be good to successor in office.

12. Bonds given to any person in his official character shall on his death or removal from office pass to his successor in office, who may maintain an action thereon in his own name, and transfer the same, when assignable, to the parties entitled.

What may be cited as "Revised Statutes."

13. This Act may be cited as "The Revised Statutes," adding when necessary the number of the title, chapter, and section.

When this Act to come into operation.

14. The provisions of this Act, unless therein otherwise expressed, shall come into operation on the first day of August, in the year of our Lord one thousand eight hundred and fifty-four.

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PUBLIC ACTS

OF

NEW BRUNSWICK

PRIOR TO THE REVISED STATUTES.

31 GEORGE 3RD, CHAP. 5.

An Act for regulating Marriage and Divorce, and for preventing and punishing Incest, Adultery and Fornication.

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows :

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5. All causes, suits, controversies, matters, and questions touching and concerning marriage and contracts of marriage, and divorce, as well from the bond of matrimony as divorce and separation from bed and board, and alimony, shall and may be heard and determined by and before the Governor and Commander in Chief of this Province and His Majesty's Council ; and the Governor or Commander in Chief and Council aforesaid, or any five or more of the said Council, together with the Governor or Commander in Chief as president, be and they are hereby constituted, appointed and established a court of judicature in the matters and premises aforesaid, with full authority, power, and jurisdiction in the same : Provided, and it is hereby declared, that nothing herein contained shall deprive, diminish, control, obstruct, or abridge, or be construed, deemed, or extended to deprive, diminish, control, obstruct, or abridge in any manner the rights, powers, authority, judicature or jurisdiction of the Court of Chancery, or of the Supreme Court of Judicature, or of any inferior court of this Province, in and touching the matters and premises aforesaid, or any of them ; and no sentence, decree, judgment, or proceeding of the said court

Causes in marriage and divorce, before whom and how to be tried.

of Governor or Commander in Chief and Council, in any information, prosecution, suit, or process, touching and concerning any marriage, or contract of marriage, or divorce, or alimony, shall take away, annul, bar, suspend, or in any wise alter or affect the right of action of any person or persons, for any injury or damage sustained for or by reason of any breach of any covenant or contract of marriage.

* * * *

Causes of
divorce, &c.

9. The causes for divorce from the bond of matrimony, and of dissolving and annulling marriage, are and shall be, frigidity or impotence, adultery, and consanguinity within the degrees prohibited in and by an Act of Parliament made in the thirty-second year of the reign of King Henry the Eighth, intituled, *An Act for Marriages to stand, notwithstanding pre-contracts*, and no other causes whatsoever.

When issue
not bastard-
ized, or widow
barred of
dower, &c.

10. Provided always, that in case of a sentence of divorce from the bond of matrimony or marriage for the cause of adultery, the issue of such marriage shall not in any case be bastardized, or in any way prejudiced or affected with any disability thereby; provided also, that the wife in such case shall not be thereby barred of her dower, or the husband be thereby deprived of any tenancy by the courtesy of England, unless it shall be so expressly adjudged and determined in and by such sentence of divorce.

* * * *

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12 VIC., CHAP. 39.

An Act to consolidate and amend various Acts of Assembly relating to the further amendment of the Law.

[*Passed 14th April, 1849.*]

WHEREAS it is expedient that the several Acts of Assembly relating to the amendment of the law should be amended and consolidated into one Act : Be it therefore enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows :

* * * * *

CONSTRUCTION CLAUSE.

23. In any Act of the General Assembly of this province which may have been passed during or since the first year of Her present Majesty's reign, or which may be passed at the present or any future session, the word "person" shall extend to a body politic or corporate, as well as to an individual; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as to several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as to a male; Provided always, that those words and expressions occurring in this clause to which more than one meaning is to be attached, shall not have the different meanings given to them by this clause in those cases in which there may be anything in the subject or context repugnant to such construction, and in which such construction could not reasonably be supposed to have been intended.

Construction
clause.

* * * * *

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10 VIC., CHAP. 83.

An Act for the Regulation of Benefit Building Societies.

[*Passed 14th April, 1847.*]

WHEREAS certain societies, commonly called building societies, have been established in different parts of the United Kingdom of Great Britain, and in the Province of Canada, principally amongst the industrious classes, for the purpose of raising by small periodical subscriptions a fund to assist the members thereof in obtaining a small freehold or leasehold property, and it is expedient to afford encouragement and protection to such societies, and the property obtained therewith in this Province : Be it therefore enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows :—

Societies, for
what purposes
established,
powers, &c.

1. It shall and may be lawful for any number of persons in this province to form themselves into and establish societies for the purpose of raising by the monthly or other subscriptions of the several members of such societies, shares not exceeding the value of one hundred and fifty pounds for each share, such subscriptions not to exceed in the whole twenty shillings per month for each share, a stock or fund for the purpose of enabling each member thereof to receive out of the funds of such society the amount or value of his or her share or shares therein, to erect or purchase one or more dwelling house or dwelling houses, or other real or leasehold estate, to be secured by way of mortgage to such society, until the amount or value of his or her shares shall have been fully repaid to such society, with the interest thereon, and all fines or other payments incurred in respect thereof, and to and for the several members of each society from time to time to assemble together, and to make, ordain, and constitute such proper and wholesome rules and regulations for the government and guidance of the same, as to the major part of the members of such society so assembled together shall seem meet, so as such rules shall not be repugnant to the express provisions of this Act, and to the general laws of this province, and to impose and inflict such reasonable fines, penalties and forfeitures upon the several members of any such society who shall offend against any such rules, as the members may think fit, to be respectively paid to such uses

for the benefit of such society as such society by such rules shall direct; and also from time to time to alter and amend such rules as occasion shall require, or annul or repeal the same, and to make new rules in lieu thereof, under such restrictions as are in this Act contained; provided that no member shall receive or be entitled to receive from the funds of such society any interest or dividend by way of annual or other periodical profit upon any shares in such society, until the amount or value of his or her share shall have been realized, except on the withdrawal of such member according to the rules of such society then in force.

2. It shall and may be lawful to and for any such society to have and receive from any member or members thereof, any sum or sums of money by way of bonus on any share or shares for the privilege of receiving the same in advance prior to the same being realized, and also any interest for the share or shares so received on any part thereof, without being subject or liable on account thereof to any of the forfeitures or penalties imposed by any Act or Acts of Assembly relating to usury. Bonus, &c., when not usurious.

3. It shall and may be lawful to and for any such society, in and by the rules thereof, to describe the form or forms of conveyance, mortgage, transfer, agreement, bond, or other instrument which may be necessary for carrying the purposes of the said society into execution, and which shall be specified and set forth in a schedule to be annexed to the rules of such society, and duly certified and deposited as hereinafter provided. Forms of conveyances, &c., how to be made.

4. Two transcripts fairly written on paper or parchment, of all rules made in pursuance of this Act, signed by three members, and countersigned by the secretary of any such society (accompanied in the case of an alteration or amendment of rules, with an affidavit of the secretary, or one of the officers of the said society, that the provisions of this Act have been duly complied with) with all convenient speed after the same shall be made, altered or amended, and so from time to time after every making, altering, or amending thereof, shall be submitted to the barrister at law as may be appointed by Her Majesty's Attorney General of this province, for the purpose of ascertaining whether the said rules of such society, or alteration, or amendment thereof, are calculated to carry into effect the intention of the parties framing such rules, alterations, or amendments, and are in conformity to law and to the provisions of this Act, and the said barrister shall advise with the said secretary, if required, and shall give a certificate on each side of the said transcripts, that the same are in conformity to law and to the provisions of this Act, or point out in what part or parts the said rules are repugnant thereto, and the barrister

for advising as aforesaid, and perusing the rules or alterations, or amendments of the rules of each respective society, and giving such certificates as aforesaid, shall demand no further fee than the sum of one guinea, which shall be defrayed by each society respectively; and one of such transcripts, when certified by the said barrister, shall be returned to the society, and the other of such transcripts shall be transmitted by such barrister to the clerk of the peace for the county wherein such society shall be formed, and by him laid before the justices for such county at the General Sessions of the Peace or adjournment thereof, held next after the time when such transcript shall have been so certified and transmitted to him as aforesaid, and the justices then and there present are hereby authorized and required, without motion, to allow and confirm the same; and such transcript shall be filed by such clerk of the peace with the rolls of the sessions of the peace in his custody, without fee or reward; and all rules, alterations and amendments thereof, from the time when the same shall be certified by the said barrister, shall be binding on the several members and officers of the said society, and all persons having interest therein.

To whom submitted, if no certificate.

5. Provided always, that in any case any such barrister shall refuse to certify all or any of the rules so to be submitted for his perusal and examination, it shall then be lawful for any such society to submit the same to the Court of General Sessions of the Peace, together with the reasons assigned by the said barrister, in writing, for any such rejection or disapproval of any one or more such rules, and the justices at their said general sessions shall and may, if they think fit, confirm and allow the same, notwithstanding any such rejection or disapproval by any such barrister.

Fee to barrister on submission.

6. Provided always, that the said barrister shall be entitled to no further fee for or in respect of any alteration or amendment of any rules, upon which one fee has been already paid to the said barrister, within the period of three years; provided also, that if any rules, alterations, or amendments are sent to such barrister, accompanied with an affidavit of being a copy of any rules, or alterations, or amendments of the rules of any other society, which shall have been already enrolled under the provisions of this Act, the said barrister shall certify and return the same as aforesaid without being entitled to any fee for such certificate.

Until when, Societies not entitled to benefit of Act.

7. No such society as aforesaid shall have the benefit of this Act, unless all the rules for the management thereof shall be entered in a book to be kept by the secretary of such society, and which book shall be open at all seasonable times for the inspection of the members of such society;

but, nevertheless, nothing contained herein shall extend to prevent any alteration in or amendment of any such rules so entered, and deposited, and filed as aforesaid, or repealing or annulling the same, or any of them, in the whole or in part, or making any new rules for the management of such society, in such manner as by the rules of such society, shall from time to time be provided; but such new rules, or such alterations in, or amendments of former rules, or any order annulling or repealing any former rules, in the whole or in part, shall not be in force until the same respectively shall be entered in such book as aforesaid, and certified, when necessary, by such barrister as aforesaid, and until a transcript thereof shall be deposited with such clerk of the peace as aforesaid, who shall file and certify the same as aforesaid.

8. All rules from time to time made and in force for the management of such society as aforesaid, and duly entered in such book as aforesaid, and confirmed by the justices as aforesaid, shall be binding on the several members and officers of such society, and the several contributors thereto, and their representatives, all of whom shall be deemed and taken to have full notice thereof by such entry and contribution as aforesaid; and the entry of such rules in such book as aforesaid, or the transcript thereof deposited with such clerk of the peace as aforesaid, or a true copy of such transcript, examined with the original and proved to be a true copy, shall be received as evidence of such rules respectively in all cases, and no *certiorari* or other legal process shall be brought or allowed to remove any such rules into any court of judicature of this province, and every copy of any such transcript deposited with any clerk of the peace as aforesaid, shall be made without fee or reward, except the actual expense of making such copy.

When rules
to be binding,
and on whom.

9. No rule, confirmed by the justices of the peace in manner aforesaid, shall be altered, rescinded or repealed, unless at a general meeting of the members of such society as aforesaid, convened by public notice, written or printed, signed by the secretary or president of such society, in pursuance of a requisition for that purpose by seven or more of the members of such society, which said requisition and notice shall be publicly read at the two usual meetings of such society to be held next before such general meeting, for the purpose of such alteration or repeal, unless a committee of such members shall have been nominated for that purpose at a general meeting of the members of such society convened in manner aforesaid, in which case such committee shall have the like power to make such alterations or repeal, and unless such alteration or repeal shall be made with the concurrence and approbation of three-fourths of the members of such society then and there present, or by

When rules
not to be
altered.

the like proportion of such committee as aforesaid, if any shall have been nominated for that purpose.

What rules to
specify.

10. The rules of every society formed under the authority of this Act, shall specify the place or places at which it is intended such society shall hold its meetings, and contain provisions with respect to the powers and duties of the members at large, and of such committees or officers as may be appointed for the management of the affairs of such society: Provided always, that it shall and may be lawful for any such society to alter their place or places of meeting whenever they may consider it necessary, upon giving notice thereof, in writing, to the clerk of the peace for the county within which such society shall be held, the said notice to be given within seven days before or after such removal, and signed by the secretary or other principal officer, and also by three or more of the members of the said society: and provided that the place or places at which such society intend to hold their meetings shall be situate within the county in which the rules of the said society are enrolled.

Officers, how
appointed.

11. Every such society shall and may, from time to time, at any of their usual meetings, or by their committee, if any such shall be appointed for that society, elect and appoint such person into the office of trustee, president, secretary, surveyor or treasurer of such society, as they shall think proper, and also shall and may from time to time elect and appoint such other officers as shall be deemed necessary to carry into execution the purposes of such society, for such space of time and for such purposes as shall be fixed and established by the rules of such society, and from time to time to elect and appoint others in the room of those who shall vacate or die; and such trustee, treasurer and all and every other officer or other person whatever, who shall be appointed to any office in any wise touching or concerning the receipt, management, or expenditure of any sum of money collected for the purpose of any such society, before he, she or they shall be admitted to take upon him, her or them, the execution of any such office or trust (if required so to do by the rules of such society to which such officer shall belong), shall become bound in a bond according to the form prescribed in the schedule to this Act annexed with two sufficient sureties, for the just and faithful execution of such office or trust, and for rendering a just and true account according to the rules of such society, and in all matters lawful to pay obedience to the same, in such penal sum of money as by the major part of such society, at any such meeting as aforesaid, shall be thought expedient, and to the satisfaction of such society; and every such bond to be given by or on the behalf of such trustee or treasurer, or of any other person appointed to any other office or trust,

shall be given to the clerk of the peace of the county where such society shall be established, for the time being, without fee or reward; and in case of forfeiture, it shall be lawful to sue upon such bond in the name of the clerk of the peace for the time being, for the use of the said society, fully indemnifying and saving harmless such clerk of the peace from all costs and charges in respect of such suit.

12. Every such society shall and may from time to time elect and appoint any number of the members of such society to be a committee, the number thereof to be declared in the rules of every such society, and shall and may delegate to such committee all or any of the powers given by this Act to be executed, who being so delegated, shall continue to act as such committee for and during such time as they shall be appointed for such society, for general purposes, the powers of such committee being first declared in and by the rules of such society, confirmed by the justices of the peace at their sessions, and filed in the manner hereinbefore directed; and all acts and orders of such committee, under the powers so delegated to them, shall have the like force and effect as the acts and orders of such society, at any general meeting thereof, could or might have had in pursuance of this Act: Provided always, that the transactions of such committee shall be entered in a book belonging to such society, and shall be from time to time and at all times subject and liable to the review, allowance or disallowance, and control of such society, in such manner and form as such society shall, by their general rules, confirmed by the justices, and filed as aforesaid, have directed and appointed, or shall in like manner direct and appoint.

Committees,
how ap-
pointed, &c.

13. Every person who shall have or receive any part of the moneys, effects, or funds of or belonging to any such society, or shall in any manner have been or shall be intrusted with the disposal, management, or custody thereof, or of any securities, books, papers, or property relating to the same, his or her executors, administrators and assigns respectively, shall upon demand made, or notice in writing given, or left at the last or usual place of residence of such persons, in pursuance of any order of such society or committee to be appointed as aforesaid, give in his or her account at the usual meeting of such society, or to such committee thereof as aforesaid, to be examined and allowed or disallowed by such society or committee thereof, and shall, on the like demand or notice, pay over all the moneys remaining in his or her hands, and assign and transfer or deliver all securities and effects, books, papers, and property taken or standing in his or her name as aforesaid, or being in his or her hands or custody, to the trustee or treasurer for the time being, or to such other person as such society or committee thereof shall appoint; and in case of

Treasurer,
what ac-
counts to
render.

any neglect or refusal to deliver such account, or to pay over such moneys, or to assign, transfer or deliver such securities and effects, books, papers, and property, in manner aforesaid, it shall and may be lawful to and for every such society, in the name of the trustees or treasurer, or other principal officer thereof, as the case may be, to exhibit a petition to the Supreme Court of this province, who shall and may proceed thereon in a summary way, and make such order therein, upon hearing all parties concerned, as to such court in their discretion shall seem just, which order shall be final and conclusive; and all assignments, sales and transfers made in pursuance of such order, shall be good and effectual in law to all intents and purposes whatsoever.

Conveyance,
how made
when trustees
out of juris-
diction, &c.

14. When and so often as any person seized or possessed of any lands, tenements, or hereditaments, or other property or any estate or interest therein, as a trustee of any such society, shall be out of the jurisdiction of, or not amenable to the process of the Supreme Court of this province, or shall be idiot, lunatic, or of unsound mind, or it shall be unknown or uncertain whether he or she be living or dead, or such person shall refuse to convey, or otherwise assure such lands, tenements, hereditaments, or property, or estate, or interest, to the person duly nominated as trustee of such society in their stead, either alone or together with any continuing trustee, as occasion shall require, then and in every or any such case, it shall be lawful for the judges of the said court to appoint such person as to such court shall seem meet, on behalf and in the name of the person seized or possessed as aforesaid, to convey, surrender, release, assign, or otherwise assure the said lands, tenements, hereditaments, or property or estate, or interest, to such trustee so duly nominated as aforesaid; and every such conveyance, release, surrender, assignment, or assurance, shall be as valid and effectual to all intents and purposes as if the person being out of the jurisdiction or not amenable to the process of the said court, or not known to be alive, or having refused, or as if the person being idiot, lunatic or of unsound mind, had been at the time of the execution thereof of sane mind, memory and understanding, and had by himself or herself executed the same.

Fee, when not
allowed.

15. No fee, reward, emolument, or gratuity whatsoever shall be demanded, taken, or received by any officer of such court for any matter or thing done in such court in pursuance of this Act, and upon the presenting of any such petition, it shall be lawful for the judges of the said court to assign counsel learned in the law, on behalf of such society, who are hereby respectively required to do their duties therein without fee or reward.

16. If any person who may hereafter be appointed to any office in any such society, and being intrusted with the keeping of the accounts, or having in his hands or possession, by virtue of his said office or employment, any moneys or effects belonging to such society, or any deeds or securities relating to the same, shall die, or become bankrupt, or insolvent, or have any execution or attachment or other process issued against his lands, goods, chattels, or effects, or property, or estate, heritable or movable, or make any disposition, assignment, or other conveyance thereof, for the benefit of his creditors, his heirs, executors, administrators, or assigns, or other person having legal right, or the sheriff or other officer executing such process, shall, within forty days after demand made in writing, by the order of any such society or committee thereof, or the major part of them assembled at any meeting thereof, deliver and pay over all moneys and other things belonging to such society, to such person as such society or committee shall appoint, and shall pay out of the estates, assets, or effects, heritable or movable, of such persons, all sums of money remaining due, which such person received by virtue of his said office or employment, before any other of his debts are paid or satisfied, or before the money directed to be levied by such process as aforesaid, or which may be recovered or recoverable under the same, is paid over to the party issuing such process; and all such assets, lands, goods, chattels, property, estates, and effects, shall be bound to the payment and discharge thereof accordingly.

Executors,
&c., when to
pay money
due Society.

17. All real and heritable property, moneys, goods, chattels, and effects whatever, and all titles, securities for money, or other obligatory instruments and evidences or muni-
cements, and all other effects whatever, and all rights or claims belonging to or had by such society, shall be vested in the trustees or treasurer of such society for the time being, for the use and benefit of such society, and the respective members thereof, their respective executors or administrators, according to their respective claims and interests; and after the death or removal of any trustee or treasurer, shall vest in the succeeding trustee or treasurer for the same estate or interest as the former trustee or treasurer had therein, and subject to the same trusts, without any assignment or conveyance whatever, and also shall for all purposes of action or suit, as well criminal as civil, in law or in equity, in any wise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding (where necessary) be stated to be the property of the person appointed to the office of trustee or treasurer of such society for the time being, in his or her proper name, without further description: and such person shall, and he or she is hereby respectively authorized to bring or defend, or cause to be brought or defended, any action, suit, or prosecution,

Effects of
Societies in
whom vested.

criminal as well as civil, in law or in equity, touching or concerning the property, right, or claim aforesaid, of, or belonging to, or had by such society, provided that such person shall have been thereunto duly authorized by the consent of the majority of members present at any meeting of the society or committee thereof; and such person so appointed shall and may in all cases concerning the property, right, or claim aforesaid of such society, sue and be sued, plead and be impleaded, in his or her proper name, as trustee or treasurer of such society, without other description; and no such suit, action, or prosecution shall be discontinued or abate by the death of such person, or his or her removal from the office of trustee or treasurer, but the same shall and may be proceeded in by the succeeding trustee or treasurer, in the proper name of the person commencing the same, any law, usage or custom to the contrary notwithstanding; and such succeeding trustee or treasurer, shall pay or receive like costs as if the action or suit had been commenced in his or her name, for the benefit of or to be reimbursed from the funds of such society.

Trustees,
limitation of
responsibility.

18. The trustees, or treasurer, or any officer of any society established under the authority of this Act, shall not be liable to make good any deficiency which may arise in the funds of such society, unless such persons shall have respectively declared by writing, under their hands, deposited and registered in like manner with the rules of such society, that they are willing so to be answerable, and it shall be lawful for each of such persons, or for such persons collectively, to limit his, her, or their responsibility to such a sum as shall be specified in any such instrument or writing: Provided always, that the said trustee, and trustees, or treasurer, and every the officer of any such society, shall be and they are hereby declared to be personally responsible and liable for all moneys actually received by him, her, or them, on account of, or to, or for the use of the said society.

Payment to
next of kin,
when.

19. Whenever the trustees of any society established under this Act, at any time after the decease of any member have paid and divided any sum of money to or amongst any person or persons who shall at the time of such payment appear to such trustees to be entitled to the effects of any deceased intestate member, the payment of any such sum or sums of money shall be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased intestate member against the funds of such society, or against the trustees thereof, but, nevertheless, such next of kin or representative shall have remedy for such money so paid as aforesaid, against the person or persons who shall have received the same.

20. In case any member of any society shall die, who shall be entitled to any sum not exceeding twenty pounds, it shall be lawful for the trustees or treasurer of such society, and they are hereby authorized and permitted, if such trustees or treasurer shall be satisfied that no will was made and left by such deceased member, and that no letters of administration will be taken out of the funds, goods, and chattels of such depositor, to pay the same at any time after the decease of such member, according to the rules and regulations of the said society; and in the event of there being no rules and regulations made in that behalf, then the said trustee or treasurer are hereby authorized and permitted to pay and divide the same to and amongst the person or persons entitled to the effects of the deceased intestate, and that without administration.

Payment of
sums of limited amount.

21. For the more effectually preventing fraud and imposition on the funds of such societies, if any officer, member or any other person, being, or representing himself or herself to be a member of such society, or the nominee, executor, administrator, or assignee of any member of such society, or any other person whatever, shall in or by any false representation or imposition, fraudulently obtain possession of the moneys of such society, or any part thereof, or having in his or her possession any sum of money belonging to such society, shall fraudulently withhold the same, and for which offence no special provision is made in the rules of such society, it shall be lawful for any one justice of the peace residing within the county within which such society shall be held, upon complaint made on oath by an officer of such society, to summon such person against whom such complaint shall be made, to appear at a time and place to be named in such summons, and upon his or her appearance, or in default thereof, upon due proof upon oath of the service of such summons, it shall and may be lawful for any two justices residing within the county aforesaid, to hear and determine the said complaint, according to the rules of the said society, confirmed as directed by this Act; and upon due proof of such fraud, the said justices shall convict the said party, and award double the amount of the money so fraudulently obtained or withheld, to be paid to the treasurer, to be applied by him to the purposes of the society, so proved to have been imposed upon and defrauded, together with such costs as shall be awarded by the said justices, not exceeding the sum of ten shillings; and in case such person against whom such complaint shall be made, shall not pay the sum of money so awarded to the person, and at the time specified in the said order, such justices are hereby required by warrant under their hands and seals, to cause the same to be levied by distress and sale of goods of such person on whom such order shall have been made, or by other legal proceeding, together

Cases of fraud, &c., by whom heard.

with such costs as shall be awarded by the said justices, not exceeding the sum of ten shillings, and also the costs and charges attending such distresss and sale, or other legal proceeding, returning the overplus (if any) to the owner; and in default of such distress being found, the said justices of the peace shall commit such person so proved to have offended to the provincial penitentiary, there to be kept at hard labour for such a period not exceeding three calendar months, as to them shall seem fit: Provided nevertheless, that nothing herein contained shall prevent the said society from proceeding by indictment or complaint against the party complained of; and provided also, that no party shall be proceeded against by indictment or complaint if a previous conviction has been obtained for the same offence under the provisions of this Act.

Rules for
settling dis-
putes.

22. Provision shall be made by one or more of the rules of every such society, to be confirmed as required by this Act, specifying whether a reference of every matter in dispute between any such society, or any person acting under them, and any individual member thereof, or person claiming on account of any member, shall be made to such of Her Majesty's justices of the peace as may act in and for the county in which such society may be formed, or to arbitrators to be appointed in manner hereinafter directed; and if the matter so in dispute shall be referred to arbitration, certain arbitrators shall be named and elected at the first meeting of such society, or committee thereof, that shall be held after the enrolment of its rules, none of the said arbitrators being beneficially interested, directly or indirectly, in the funds of the said society, of whom a certain number, not less than three, shall be chosen by ballot in each such case of dispute, the number of the said arbitrators and mode of ballot being determined by the rules of each society respectively; the names of such arbitrators shall be duly entered in the book of the said society in which the rules are entered as aforesaid; and in case of the death, or refusal, or neglect of any or all of the said arbitrators to act, it shall and may be lawful to and for the said society, or committee thereof, and they are hereby required, at their next meeting, to name and elect one or more arbitrator or arbitrators as aforesaid, to act in the place of the said arbitrator or arbitrators, so dying, or refusing, or neglecting to act as aforesaid, and whatever award shall be made by the said arbitrators, or the major part of them, according to the true purport and meaning of the rules of such society, confirmed by the justices according to the directions of this Act, shall be in the form to this Act annexed, and shall be binding and conclusive on all parties, and shall be final, to all intents and purposes, without appeal, or being subject to the control of one or more justices of the peace, and shall not be removed or removable into any court of law, or restrained or restrain-

able by the injunction of any court of equity : and should either of the said parties in dispute refuse or neglect to comply with or conform to the decision of the said arbitrators, or the major part of them, it shall and may be lawful for any one justice of the peace residing within the county within which such society shall be held, upon good and sufficient proof being adduced before him of such award having been made, and of the refusal of the party to comply therewith, upon complaint made by or on behalf of the party aggrieved, to summon the person against whom such complaint shall be made, to appear at a time and place to be named in such summons, and upon his or her appearance, or in default thereof, upon due proof upon oath of the service of such summons, any two justices of the peace may proceed to make such order thereupon as to them may seem just ; and if the sum of money so awarded, together with a sum for costs, not exceeding the sum of ten shillings, as to such justices shall seem meet, shall not be immediately paid, then such justices shall, by warrant under their hands and seals, cause such sum and costs as aforesaid to be levied by distress or by distresses and sale of the moneys, goods, chattels, securities, and effects belonging to the said party or to the said society, or other legal proceeding, together with all further costs and charges attending such distress and sale or other legal proceeding, returning the overplus, if any, to the said party or to the said society, or to one of the trustees or treasurer thereof ; and in default of such distress being found, or such other legal proceeding being ineffectual, then to be levied by distress and sale of the proper goods of the said party, or of the said society so neglecting or refusing as aforesaid, by other legal proceedings, together with such further costs and charges as aforesaid, returning the overplus, if any, to the owner : Provided always, that when the rules of any society provide for a reference to arbitrators of any matter in dispute, and it shall appear to any justice of the peace, on the complaint, on oath, of a member of any such society, or of any person claiming on account of such member, that application has been made to such society, or the trustees or treasurer, or other officer thereof, for the purpose of having any dispute so settled by arbitration, and that such application has not within forty days been complied with, or that the arbitrators have neglected or refused to make any award, it shall and may be lawful for such justice to summon the trustee, treasurer, or other officer of the society, or any one of them against whom the complaint is made, and for any two justices to hear and determine the matter in dispute, in the same manner as if the rules of the said society had directed that any matter in dispute as aforesaid should be decided by justices of the peace, anything herein contained to the contrary thereof notwithstanding.

References on
disputes.

23. If by the rules of any such society it is directed that any matter in dispute as aforesaid shall be decided by justices of the peace, it shall and may be lawful for any such justice, on complaint being made to him of any refusal or neglect to comply with the rules of such society by any member or officer thereof, to summon the person against whom such complaint shall be made, to appear at a time and place to be named in such summons, and upon his or her appearance, or, in default thereof, upon due proof on oath of the service of such summons, it shall and may be lawful for any two justices to proceed to hear and determine the said complaint, according to the rules of the said society; and in case the said justices shall adjudge any sum of money to be paid by such person against whom such complaint shall be made, and such person shall not pay such sum of money to the person, and at the time specified by such justices, they shall proceed to enforce their award in the manner hereinbefore directed to be used, in case of any neglect to comply with the decision of the arbitrators appointed under the authority of this Act.

What orders
on disputes
final.

24. Every sentence, order and adjudication of any justices under this Act, shall be final and conclusive to all intents and purposes, and shall not be subject to appeal, and shall not be removed or removable into any court of law, or restrained or restrainable by the injunction of any court of equity, and no suspension, advocacy or reduction shall be competent.

Minors,
powers of.

25. A minor may become a member of any such society, and shall be empowered to execute all instruments, give all necessary acquittances, and enjoy all the privileges, and be liable to all the responsibilities appertaining to members of matured age, notwithstanding his or her incapacity or disability in law to act for himself or herself: Provided always, that such minor be admitted into such society by and with the consent of his or her parents, masters or guardians.

Annual
audits, &c.,
how made.

26. The rules of every such society shall provide that the trustees, treasurer or other principal officer thereof, shall, once in every year at least, prepare or cause to be prepared a general statement of the funds and effects of or belonging to such society, specifying in whose custody or possession the said funds or effects shall be then remaining, together with an account of all and every the various sums of money received and expended by or on account of the said society since the publication of the preceding periodical statement; and every such periodical statement shall be attested by two or more members of such society, appointed auditors for that purpose, and shall be countersigned by the secretary of such society, and every member shall be entitled to receive from the said society a copy of such periodical statement, on

payment of such sum as the rules of such society may require, not exceeding the sum of sixpence.

27. On the trial of any action, indictment or other proceeding respecting the property of any society enrolled under the authority of this Act, or in any proceedings before any justice of the peace, any member of such society shall be a competent witness, and shall not be objected to on account of any interests he may have, as such member, in the result of such action, indictment or other proceeding.

When members may be witnesses.

28. It shall be lawful for the trustees named in any mortgage made on behalf of such societies, or the survivor or survivors of them, or for the trustees for the time being, to endorse upon any mortgage or further charge, given by any member of such society to the trustees thereof for moneys advanced by such society to any member thereof, a receipt for all moneys intended to be secured by such mortgage or further charge, which shall be sufficient to vacate the same, and vest the estate of and in the property comprised in such security, in the person or persons for the time being entitled to the equity of redemption, without it being necessary for the trustees of any such society to give any re-conveyance of the property so mortgaged, which receipt shall be specified in a schedule to be annexed to the rules of such Society, duly certified and deposited as aforesaid.

What sufficient to discharge mortgage.

29. Nothing herein contained shall authorize any building society established under this Act to invest its funds, or any part thereof, in any Savings Bank.

Funds, where not to be invested.

30. All building societies hereafter to be established, shall be entitled to the protection and benefits of this Act, but no such society shall be entitled thereto until their rules shall have been certified and deposited in the manner hereinbefore directed by this Act.

When Act extended to all Building Societies.

31. Wherever in this Act, in describing or referring to any person, the word importing the singular number or the masculine gender only is used, the same shall be understood to include, and shall be applied to several persons or parties, as well as one person or party, and females as well as males, unless there be something in the subject or context repugnant to such construction.

Interpretation clause.

32. This Act may be altered, amended, or repealed, at this present or any future Session of Assembly.

When Act may be amended.

Schedule referred to in this Act.

FORM OF AWARD.

We, the major part of the arbitrators, duly appointed by the Building Society, established at , in the

County of _____, do hereby award and order that A.B. (*specifying by name the party or the officer of the society*) do on the _____ day of _____, pay to C.D. the sum of _____, (or we do hereby reinstate in, or expel A.B. from, the said society, *as the case may be*).

Dated this _____ day of _____, A.D. 18 _____.

E.F.

G.H.

FORM OF BOND.

Know all men by these presents, that we, A.B., of _____, Treasurer (*or* Trustee, &c.) of the _____ Building Society, established at _____, in the County of _____, and C.D., of _____, and G.H., of _____, (as sureties on behalf of the said A.B.) are jointly and severally bound to E.F., the present Clerk of the Peace for the County of _____, in the sum of _____, to be paid to the said E.F. as such Clerk of the Peace or his successor, Clerk of the Peace of the said County of _____ for the time being, or his certain attorney, for which payment well and truly to be made, we jointly and severally bind ourselves, and each of us by himself, our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals.

Dated the _____ day of _____, in the year of our Lord one thousand eight hundred and _____.

Whereas the above bounden A.B. hath been duly appointed Treasurer (*or* Trustee, &c.) of the _____ Building Society established as aforesaid, and he together with the above bounden C.D. and G.H. as his sureties, have entered into the above written bond, subject to the condition hereinafter contained; Now, therefore, the condition of the above written bond is such that if the said A.B. shall and do justly and faithfully execute his office of Treasurer (*or* Trustee, &c.) of the said Society established as aforesaid, and shall and do render a just and true account of all moneys received and paid by him, and shall and do pay over all the moneys remaining in his hands and assign and transfer or deliver all securities and effects, books, papers, and property of or belonging to the said Society, in his hands or custody, to such person or persons as the said Society shall appoint, according to the rules of the said Society, together with the proper or legal receipts or vouchers for such payments, and likewise shall and do in all respects well and truly and faithfully perform and fulfil his office of Treasurer (*or* Trustee, &c.) to the said Society, according to the rules thereof, then the above written bond shall be void and of no effect, otherwise shall be and remain in full force and virtue.

A.B. [L.S.]

C.D. [L.S.]

G.H. [L.S.]



ACTS

OF

NEW BRUNSWICK

SUBSEQUENT TO THE REVISED STATUTES.

17 VIC., CHAP. 12.

An Act to authorize the Election of certain Town or Parish Officers.

[*Passed 1st May, 1854.*]

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows:—

1. That one or more of the following town or parish officers, namely, weighers of hay and straw, weighers of coals, measurers of salt, measurers of wood or bark, and inspectors of barrels, may be elected in the several towns or parishes of this Province, in the same manner and at the same time as other town or parish officers are by law authorized to be elected; and if not so elected, the said officers may be appointed by the Sessions.

Election of
certain Parish
Officers.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



21 VIC., CHAP. 45.

An Act to provide for the appointment of a Deputy Harbour Master for the Port and Harbour of Saint John.

[*Passed 6th April, 1858.*]

WHEREAS the increased shipping and business of the Port and Harbour of Saint John render it necessary to provide an assistant to the Harbour Master: Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows:—

Harbour Master, with consent of Common Council, may appoint a deputy.

1. The Harbour Master of the Port and Harbour of Saint John is hereby authorized and empowered from time to time, with the consent and approbation of the Common Council of the City of Saint John, to appoint a deputy, who shall be under his direction, and shall have full power and authority to execute, do and perform all and whatsoever to the office of Harbour Master of the said Port and Harbour of Saint John shall or may belong or appertain.

Salary, whence payable, and amount.

2. The Deputy Harbour Master hereinbefore named shall be paid such an annual salary as the Common Council may direct, out of the revenues received for harbor dues and anchorage collected at the Port of Saint John, such salary not to exceed the sum of two hundred pounds per annum.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



23 VIC., CHAP. 28.

An Act to amend the Law relating to Insolvent Confined Debtors.

[*Passed 9th April, 1860.*]

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, —That whenever the judge or justices shall make an order for payment by the suitor of five shillings per week to the debtor, as directed by the first section of chapter one hundred and twenty-four, title thirty-four, of the Revised Statutes, "*Of Insolvent Confined Debtors*," such payment may in all cases be made to the gaoler or keeper of the gaol for the time being, at the gaol in which, or on the limits of which, the said debtor is confined, anything in the said Act to the contrary notwithstanding.

Weekly allowance to debtor may be paid to gaoler.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



23 VIC., CHAP. 37.

An Act to amend the law relating to Divorce and Matrimonial causes.

[Passed 9th April, 1860.]

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows:—

Jurisdiction of Court of Governor in Council under Act 31 G. 3, c. 5, vested in a Court of divorce and matrimonial causes.

1. As soon as this Act shall come into operation, all jurisdiction now vested in or exercisable by the Court of Governor in Council, under the authority of an Act made and passed in the thirty-first year of the reign of His late Majesty King George the Third, intituled "*An Act for regulating Marriage and Divorce, and for preventing and punishing incest, adultery, and fornication,*" in respect of suits, controversies, and questions concerning marriage, and contracts of marriage and divorce, as well from the bond of matrimony as divorce and separation from bed and board, and alimony, shall belong to and be vested in a court of record, to be called "*The Court of Divorce and Matrimonial Causes.*"

Appointment of the Judge of such Court.

2. The Governor in Council shall appoint by commission under the Great Seal of the Province, one of the judges of the Supreme Court to be the judge of the said Court for Divorce and Matrimonial Causes, who shall have power and authority to hear and determine all causes and matters cognizable therein, subject to appeal as hereinafter directed.

Suits in certain stages transferred.

3. All suits and proceedings which, at the time when this Act comes into operation, shall be pending in the said Court of Governor in Council, shall be transferred to, dealt with, heard and decided by the said Court for Divorce and Matrimonial Causes, as if the same had been originally instituted in such court; and the said Court of Governor and Council shall be abolished as soon as this Act comes into operation, except as to such suits now pending in said court in which evidence has been examined, which shall be proceeded with as if this Act had not been passed.

Orders of Court of Governor in Council may

4. Any order, judgment, or decree of the said Court of Governor and Council, which shall have been made before this Act comes into operation, may be enforced or otherwise

dealt with by the said Court for Divorce and Matrimonial Causes, in the same manner as if it had been originally made by the said court under this Act.

be enforced
by the new
Court.

5. In all causes cognizable in the said Court for Divorce and Matrimonial Causes, when any person having been duly cited to appear and answer, or required to comply with any order or decree of the said court, shall neglect or refuse to appear or to obey such order or decree, or when any person shall commit a contempt in the face of such court, it shall be lawful for the court to pronounce such person in contempt, and thereupon a writ *de contumace capiendo* (A) shall issue out of said court, directed to the sheriff of the county in which such person may be, returnable on the first day of the next term of the said court, or if issued in term, returnable on any day in such term that the court may direct; and all sheriffs, gaolers, and other officers shall execute such writ by taking and detaining the body of the person against whom the said writ shall issue.

Neglect to
appear, &c.,
may be pro-
nounced a
contempt;
writ *de con-
tumace capi-
endo*.

6. Upon the due appearance and answer of any party so cited, or the obedience to any such order or decree, or the due submission of any party so having committed a contempt in the face of the court, the said court may, upon such terms as it shall deem just, pronounce such party absolved from any such contempt, and shall forthwith make an order for discharging such party out of custody; and the sheriff or other officer in whose custody such person may be, shall on production of such order, and on payment of the costs incurred by such contempt, forthwith discharge him.

Absolution
from con-
tempt and
discharge.

7. The court may issue writs of subpœna (B), and subpœna *duces tecum* (C), commanding the attendance of witnesses or the production of papers; and any person served with any such writ shall be bound to attend and to be sworn and give evidence, and to produce papers in obedience thereto, in the same manner as if it had been a writ of subpœna or subpœna *duces tecum* issued out of the Supreme Court in a cause pending therein.

Power to
issue sub-
pœna.

8. The witnesses in all suits before the court, when their attendance can be had, shall be sworn and examined orally; provided that when a witness is out of the jurisdiction of the court, or when by reason of his illness or from other circumstances, the court shall not think fit to enforce the attendance of the witnesses, it shall be lawful for the court to order the examination of such witness on oath upon interrogatories or otherwise, before any person or persons to be named in such order; and all the powers given to the Supreme Court and the several judges thereof, by an Act passed in the fifth year of the reign of His late Majesty

Examination
of witnesses.

King William the Fourth, intituled, *An Act to facilitate the examination of witnesses before trial in the Supreme Court*, shall extend to and be applicable to this court.

Enforcement
of orders by
execution.

9. The court shall have power to enforce the performance of its decrees or orders, by execution (D) against the goods and chattels, lands and tenements of the party liable thereto; and such executions shall have the same priority and effect as executions issued upon judgments in the Supreme Court.

Practice and
proceedings.

10. The practice and proceedings of the said court shall be conformable, as near as may be, to the practice of the Ecclesiastical Court in England, prior to an Act of Parliament made and passed in the year one thousand eight hundred and fifty-seven, intituled, *An Act to amend the law relating to Divorce and Matrimonial Causes in England*, subject, however, to the provisions of this Act, and the existing rules, orders, and practice as now established in the Court of Governor and Council in this Province.

Power to
make regula-
tions as to
practice and
procedure,
forms and
fees.

11. The court shall have power to make rules and regulations concerning the practice and procedure, and the forms to be used under this Act, and to regulate the fees payable on all proceedings therein as may be considered necessary, and to alter or revoke the same or any of them as may from time to time be considered necessary.

Authenticat-
ed orders and
decrees, or
copies to be
evidence in
Courts.

12. All decrees and orders, or copies of decrees or orders of the said court, sealed with the seal thereof, shall be received in evidence in all courts.

Appeal to Su-
preme Court
allowed.

13. Either party dissatisfied with any decision of the court in any suit or proceeding may, under such rules and regulations as the Supreme Court may from time to time prescribe, appeal therefrom to the Supreme Court, whose decision shall be final.

Registrar of
Court of Gov-
ernor in
Council to be
Registrar of
the new
Court.

14. The registrar of the said Court of Governor and Council shall be the registrar of the Court of Divorce and Matrimonial Causes, and shall have the custody of all the records and papers thereof, sign and seal the writs and processes, tax the costs, and draw all the orders and decrees of the said court, and attend the sittings thereof in person or by deputy.

Barristers and
Attorneys of
Supreme
Court to be
entitled to
practice in
new Court.
Terms.

15. All barristers and attorneys entitled to practise in the Supreme Court of this Province, shall be entitled to practise in the Court of Divorce and Matrimonial Causes.

16. The terms of the said court shall commence on the fourth Tuesdays in February, June, and October, in each

year, and shall continue for the space of ten days: Provided that the judge of the said court shall have power to continue the sittings of the said court beyond the end of the said terms respectively, if the causes pending in the said court shall require it.

17. All citations, writs, or processes issued out of the said court shall be tested in the name of the judge of the court, and on the day of issuing the same.

Citations, &c., to be tested in name of the Judge.

18. All parts of an Act made and passed in the thirty-first year of the reign of His late Majesty King George the Third, intituled, *An Act for regulating Marriage and Divorce, and for preventing and punishing incest, adultery, and fornication*, as are inconsistent with the provisions of this Act, and also the three Acts of Assembly hereinafter mentioned, shall be repealed as soon as this Act comes into operation, namely, an Act made and passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled, *An Act for the further regulation of the formation of the Court of Governor in Council, for the determination of all suits and controversies touching and concerning Marriage and Divorce*; also an Act made and passed in the sixth year of the same reign, intituled, *An Act for altering the Terms of holding the Court of the Governor in Council for causes of Marriage and Divorce*; and an Act made and passed in the tenth year of the reign of Her present Majesty, intituled, *An Act for the further regulation of the Court of Governor in Council in causes of Marriage and Divorce*.

Repeal of 31 G. 3, c. 5, in part, 4 W. 4, c. 30, 6 W. 4, c. 34, and 10 V., c. 33.

19. The forms in the schedule to this Act, or forms to the like effect, shall be deemed of the same force as if incorporated in the sections to which they refer.

Forms in schedule.

20. This Act shall come into operation on the first day of July next.

Commencement of Act.

SCHEDULE OF FORMS.

A.

Writ de contumace capiendo.

[L.S.]

VICTORIA, by the Grace of God, &c.—

To the Sheriff of

GREETING :

Whereas is contumacious and contemns the jurisdiction and authority of the Court for Divorce and Matrimonial Causes (*here state the non-appearance or other contempt*); You are hereby commanded to attach the said by his body, until he shall make satisfac-

tion for the said contempt ; and how you shall execute this writ notify to the said court on the day of

next, and have then and there this writ.

Witness (*insert the name of the judge*) at Fredericton, the
day of in the year
of our reign.

A B.,
Registrar.

B.

Subpœna ad testificandum.

[L.S.]

VICTORIA, by the Grace of God, &c.—

To (*names of witnesses*). GREETING :

We command you and every of you to be and appear in your proper persons before our Court for Divorce and Matrimonial Causes, at Fredericton, on the day of next, at o'clock in the noon, and so from day to day, until the cause or proceeding is heard,* to testify the truth according to your knowledge, in a certain cause now in the said court depending between A.B., proponent, and C.D. respondent, on the part of the said and on that day to be tried ; and this you nor any of you, shall in no wise omit, under the penalty of one hundred pounds.

Witness (*insert the name of the judge*) at Fredericton, the
day of in the year of our reign.

C.

Subpœna duces tecum.

The same as the form B. to the asterisk, then as follows :—*And also that you bring with you, and produce at the time and place aforesaid (*here describe shortly the deed or paper required to be produced*) then and there to testify and show all and singular those things which you or either of you know, or the said deed or instrument doth import, of and concerning a certain cause now in our said court depending, &c. (*as in form B. to the end.*)

D.

Execution.

[L.S.]

VICTORIA, by the Grace of God, &c.—

To the Sheriff of County, GREETING :

Whereas by an order (*or decree*) lately made in our Court for Divorce and Matrimonial Causes, in a cause therein pending, wherein A. B. was proponent and C. D. respondent, it was ordered that the said should pay to the said

the sum of (*state shortly the substance of the order*);

Therefore we command you, that of the goods and chattels, lands and tenements of the said in your bailiwick, you cause to be made the said sum of to be rendered to the said and make return on the Tuesday, in next.

Witness (*insert the name of the judge*) at Fredericton, the
day of in the year of our reign.

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24 VIC., CHAP. 8.

An Act to amend the Law relating to Divorce and Matrimonial Causes.

[*Passed 12th April, 1861.*]

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows :—

Act 23 V., c.
37, s. 13, in
part repealed.

1. So much of the thirteenth section of an Act made and passed in the twenty-third year of the reign of Her Majesty Queen Victoria, intituled "*An Act to amend the Law relating to Divorce and Matrimonial Causes,*" as takes away the right of appeal to Her Majesty in Her Majesty's Privy Council, be repealed.

Appeal to Her
Majesty in
Council al-
lowed.

2. Appeals from the Supreme Court, in all causes cognizable or adjudicated in the said Court of Marriage and Divorce, may be made to Her Majesty in Her Majesty's Privy Council, under such rules and regulations as Her Majesty may prescribe.

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25 VIC., CHAP. 18.

An Act to amend Chapter 96 of the Revised Statutes,
“*Of the Survey and Exportation of Lumber.*”

[Passed 23rd April, 1862.]

WHEREAS in and by the sixth section of chapter ninety-six of the Revised Statutes, *Of the survey and exportation of Lumber*, it is, among other things, enacted—That the surveyor shall mark or scribe on every log surveyed by him, the superficial contents thereof, with his private mark and the initials of the purchaser; and whereas it is a common practice among surveyors to mark or scribe the bark only of those logs submitted to their inspection, by which, in consequence of the bark becoming loose and disengaged from the wood, the marks are frequently lost, and the survey becomes entirely useless to the owner; for remedy whereof;

Be it enacted by the Lieutenant Governor, Legislative Council and Assembly,—That from and after the passing of this Act, it shall be the duty of the surveyors to strip the bark from a space on every log submitted to them for survey, which space shall be of a sufficient size to enable them to mark or scribe thereon the superficial contents, private mark of surveyor, and initials of the purchaser's name; and such marking and scribing shall be made on the space so stripped of the bark; and no surveyor shall be entitled to any fee or reward for the survey of any log unless the said scribing or marking shall have been made on the wood and not merely on the bark of the log.

How logs
shall be
marked.

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Excellent Majesty.



25 VIC., CHAP. 19.

An Act in addition to Chap. 93, Title XVII of the Revised Statutes, *Of the Measurement of Firewood and Bark.*

[Passed 23rd April, 1862.]

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows ;—

Mode of measuring firewood and bark.

1. That every vehicle used for the measurement and carriage of wood and bark, in addition to the requirements of chapter ninety-three, Title seventeen. of the Revised Statutes, *Of the Measurement of Firewood and Bark*, shall be furnished with a straight cross-bar of wood or iron, which said crossbar shall be attached to two of the stakes of said vehicle, one on each side, by a hasp of iron at each end of the said cross-bar, fitting over a staple on each of the said stakes, and secured by an iron bolt passing through each of the said staples over the said hasps, in such a manner that the bottom of the said cross-bar shall be firmly fixed parallel with the floor of the said vehicle, and at a distance of three feet three inches therefrom, under a penalty of twenty shillings for each and every violation of this Act.

Regulation of vehicles for carriage of.

2. No load of wood on any of the said vehicles shall be piled higher than to touch the bottom of the said cross-bar, and the said cross-bar shall be fastened down and secured in its proper place on the top of each load, as herein-before described, before the said vehicle shall leave the side of the boat or vessel from which the said vehicle has received its load, under a penalty not exceeding twenty shillings for each and every offence.

Penalties.

3. The penalties imposed by this Act shall be applied in the same way and manner and for the same purpose as provided by the third section of the Act of which this is an amendment.



25 VIC., CHAP. 28.

An Act relating to Corporations.

[*Passed 23rd April, 1862.*]

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows:—

1. Five or more persons associated together for any mining or manufacturing purposes, or both, may, by subscribing their names to a memorandum of association, form themselves into an incorporated company, with a subscribed capital stock of not less than ten thousand dollars.

What constitutes a corporation.

2. The memorandum of association shall specify the name of the proposed company, the object, the capital stock, and the number of shares into which it is proposed to be divided, with the amount of each share, the town or place within the province in which its office or principal place of business is to be established.

Memorandum, what to specify.

3. The memorandum of association shall be in the form following, or as near thereto as circumstances will admit, viz. :—

Form of memorandum.

MEMORANDUM OF ASSOCIATION OF THE ST. MARY'S MILL COMPANY.

1st. The name of the company is The St. Mary's Mill Company.

2nd. The nominal capital of the company is £20,000, to be divided into 2,000 shares of ten pounds each.

3rd. The office or principal place of business is to be at _____, in the County of York.

4th. The object of the company is the manufacture of lumber of all kinds, and flour, with such other things as are incident to the attainment of that object.

We, the several persons whose names are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names :—

Name.	No. of Shares.
John Stubbs, of Fredericton, in the County of York	2
Peter Snooks, of Sheffield, in the County of Sunbury.	5
Joseph Titbit, of Stanley, in the County of York.....	6
Simon Dunn, of Northampton, in the County of York.....	4
David Cheek, of Norton, in the County of King's.....	6
Dated the day of , A. D. 1862.	

Memorandum, where filed.

4. The memorandum of association shall be filed in the office of the Provincial Secretary, who may grant a certificate thereof in the form following, or as near as circumstances will admit:—

These are to certify that (*here insert names and address of members*) have this day filed in my office a memorandum of association for the incorporation of a company to be styled (*here insert name of company*) for the purpose of (*here state the object*) with a capital of to be divided into shares of pounds each, and stating that the office or principal place of business of the said Company will be established at in the County of .

Dated at Fredericton, the day of A. D. 186 .

A. B., *Provincial Secretary.*

The Provincial Secretary shall give notice in the *Royal Gazette* of the granting of such certificate, with the terms thereof.

When deemed a body corporate.

5. Upon the granting such certificate, and the publication thereof in the *Royal Gazette*, the persons mentioned in the said memorandum of association shall be deemed to be a body corporate and politic by the name and style of for the purposes therein specified, and for such purpose shall have all the powers made incident to a corporation by Act of Assembly.

When subscribers may call meeting.

6. After the granting of the said certificate, the subscribers to the memorandum of association, or a majority thereof, may call a meeting of the corporation for the purpose of organizing the corporation, giving at least ten days' notice of the time and place of such meeting in a newspaper published in the county where the office or principal place of business is situate, or if no newspaper be published therein, then in the *Royal Gazette*.

Corporation void if fifteen per cent. be

7. Notwithstanding the incorporation of any company under the authority of this Act, unless fifteen per centum

of the proposed capital stock be paid in, for the purposes of the company, within two years from the publication of the notice in the *Royal Gazette* of the filing of the memorandum of association, and a certificate of such payment signed and verified by the oath of the directors, or a majority of them, before a justice of the peace, shall be filed in the office of the Provincial Secretary, the existence of the corporation shall terminate.

8. The stockholders shall be personally liable for all debts contracted by the said corporation before the said fifteen per centum of stock shall be paid in as required in the preceding section.

Stockholders
liable for
debts before
fifteen per
cent. be paid
in.

9. Every stockholder in any such corporation shall, to the extent of the stock held by him, be liable for every call or assessment made for the purpose of enabling the company to pay its debts and carry on its operations, which may be sued for and recovered in any court of competent jurisdiction. The capital stock held by any shareholder in any such company at the time of making any call or assessment thereon, shall be liable to the payment thereof; and in case of non-payment of such call or assessment at the time when the same shall be made payable, the directors are authorized to order a sale to be made of so many of the said shares as they may think necessary for the payment thereof, with interest and expenses; such sale shall be made at auction, upon not less than thirty days' notice by the president in some newspaper published in the county of the place of business of such corporation, and in case no newspaper be published in such county, then in the *Royal Gazette*; and the stock shall be transferred by the president and secretary to the purchaser, who shall thereupon be entitled to a new certificate thereof; and the proceeds of such sale shall be applied towards paying the amount of such call or assessment, with interest, and the costs, charges and expenses of such notice, sale and transfer, and the residue, if any, to the former owner.

Liability of
stockholders
for stock sub-
scribed.

10. The joint stock and property of the corporation shall be alone responsible for the debts and engagements of the company.

Liability for
debts.

11. No corporation established under the authority of this Act shall engage in the business of banking or insurance.

Not to engage
in banking or
insurance.

12. The existence of the corporation may be proved by the production of the *Royal Gazette* containing the notice of the filing of the memorandum of association, or the certificate of the Provincial Secretary.

How existence
of corporation
proved.

Fees on filing memorandum and certificate.

13. A fee of fourteen dollars shall be paid to the Provincial Secretary for filing the memorandum of association, and granting and publishing the certificate, and a fee of sixteen dollars for filing the certificate of payment.

Annual returns, how made.

14. Every such corporation shall annually transmit to the office of the Provincial Secretary, for the information of the Legislature, a return in triplicate of the true state of the affairs of the company, verified by the oath of the secretary and a majority of the directors (which oath any justice of the peace is hereby authorized to administer) made up as it existed on the first Monday in January, specifying the names of the stockholders, with the number of shares held by each, the amount of capital stock paid in, the value of the real estate and other property of the company, the debts and liabilities of the company, the debts due to the company, the amount of dividends during the preceding year, and the amount of net profits on hand.

Authority for calling meeting to dissolve.

15. Any number of stockholders who may be owners of one quarter of the capital stock of any such company, may call a general meeting of the stockholders for the purpose of taking into consideration the propriety of dissolving the said company, giving at least three months' notice in the *Royal Gazette* and any newspaper published in the county where the place of business of such company is established, of the time and place of such meeting, with the object thereof; and if at such meeting it is determined to dissolve the said company, the stockholders are hereby empowered to take the necessary legal means to effect that object; the directors then in office shall take immediate and effectual measures for closing all the concerns of the corporation, and for paying the debts, and disposing of the property, and dividing the capital and property which may remain among the stockholders, in proportion to their respective interests.

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26 VIC, CHAP. 10.

An Act to amend Chapter 124, Title XXXIV, of the Revised Statutes, "*Of Insolvent Confined Debtors.*"

[*Passed 20th April, 1863.*]

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows:—

1. That any person confined in any gaol, or on the limits thereof, for the space of six months, in any civil suit, may apply to any judge of the Supreme Court, on affidavit, for relief, fourteen days' notice of such application, with copies of the affidavits, being first given to the opposite party or his attorney, who, on being satisfied that the debtor has no property, real or personal, to discharge the demand in part or in whole, or means of support, and that he has applied to a judge or justice for weekly support without success, the said judge may in his discretion make an order either for the maintenance or discharge of such debtor, the decision of such judge to be final.

Order for maintenance or discharge, how obtained.

2. Section nine of chapter one hundred and twenty-four, of title thirty-four, of the Revised Statutes, is hereby repealed.

Section 9 of chap. 124, title xxxiv, Rev Stat. repealed.

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27 VIC., CHAP. 8.

An Act relating to the issuing of Warrants by Justices of the Peace, and in aid of Police Officers and Constables in the execution of their duties.

[Passed 11th April, 1864.]

BE it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

* * * * *

Constables, &c., in the execution of their duty may demand assistance of persons at hand; penalty for refusal.

2. The several police officers and constables in this province, now or hereafter to be elected or appointed, and sworn in their respective parishes, districts, or counties, shall have power and authority, and they are hereby severally authorized when in the due execution of any warrant or other authority, written or verbal, or lawfully appertaining to them by virtue of their office as police officers or constables, and committed with the preservation of the peace, or the punishment or prevention of any felony or misdemeanor, or the taking into custody of any person charged with, or in the actual commission of any felony, misdemeanor, or breach of the peace, whenever it shall become necessary by reason of any wilful resistance to, or unlawful obstruction of such police officers or constables so acting in the due performance of their duty, to require any male person there present or near at hand, and being over sixteen and under sixty years of age, to aid and assist, by physical force if required, such police officers or constables in the execution of their duty; and if any such person, when so required and called upon by such police officer or constable, shall neglect or refuse to aid and assist such police officer or constable he shall be liable to a fine of not more than five pounds, to be sued for, levied, and collected with costs as directed in and by chapter one hundred and thirty-eight, title thirty-seven, of the Revised Statutes, *Of Summary Convictions*, and paid over when collected to the overseers of the poor of the parish in which the offence was committed for the use of the poor thereof.



27 VIC., CHAP. 18.

An Act relating to the Harbor of the City of Saint John.

[*Passed 11th April, 1864*]

WHEREAS certain commissioners appointed by His Excellency the Lieutenant Governor in Council, in conformity with a resolution of the House of Assembly, have in pursuance of such appointment, made a report recommending, among other things, the establishment of a new harbour line in the harbour of the City of Saint John; and the mayor, aldermen and commonalty of said city have, by petition to the Legislature, prayed for the same;—

Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows:—

1. From and after the passing of this Act, no wharf, pier, or erection of any kind or description whatsoever, shall be built, erected, or extended westwardly into the harbour of the City of Saint John on the eastern side thereof, beyond the outer or western edge of a line coloured red and styled the harbour line, shown on a plan prepared under the direction of such commissioners, and filed in the office of the common clerk of the said city, and which line is described as follows: “Beginning at a point in said line shown on said plan by the letter A near thereto (coloured red) on a southern prolongation of the west line of Simonds’ Street, in the parish of Portland, at a distance of five hundred feet from the southern side of the Straight Shore Road, so called; thence easterly to a point B, distant thirty five feet due south from the most southerly point of the wharves of Messieurs Robert Rankin & Co.; thence north-easterly to a point C, sixty feet due south from the western end of the Saint Helena wharf, so called; thence easterly until it strikes a southern prolongation of the eastern line of the Long Wharf, so called, at a point D, distant sixty-five feet from the said wharf; thence northerly along the said southern prolongation to the said Long Wharf at E; thence beginning at a point G on a western prolongation of the south line of Union Street, distant four hundred and seventy feet from the western line of Smyth Street; thence in a south-easterly direction to a point H on the face of the Honorable John Robertson’s wharf, distant sixty-five feet measured along the face of the said wharf from the north-west-

Wharves.
how far they
may extend
into Harbour
westerly.
Boundaries of
harbour.

terly end of the same; thence in a direct line to the south-western corner of the South Market Wharf I; thence to a point K, distant thirty-five feet due west from the south-western corner of Merritt's Wharf; thence to the south-western corner of the Custom House Wharf L; thence in a direct line to a point M on a western prolongation of the southern line of Bonsall's Wharf, so called, distant three hundred and ten feet from the western side of Prince William Street; thence southerly in a direct line to a point N on the extreme western point of Reed's Point Wharf, there beginning at a point O on the southerly face of Reed's Point Wharf, distant one hundred and eighty feet along said southerly face from the western line of the property now in the occupation of Valentine Graves as a lumber yard; thence to a point P, distant six hundred feet from the western side of Charlotte Street, on a prolongation of the northern side line of the breakwater; thence towards the ring-bolt in Sunken Rock to a point Q where the said line intersects a southerly prolongation of the eastern line of Germain Street, at a distance of two hundred and ninety feet south from the southern extremity of the present breakwater "

Wharves,
how far they
may extend
into harbour
easterly.
Boundaries
of harbour.

2. From and after the passing of this Act, no wharf, pier or other erection of any kind or description whatsoever, shall be built, erected or extended eastwardly into the harbour of the city of Saint John, on the western side thereof, beyond the outer or eastern edge of a line coloured red and styled the harbour line, shown on the aforesaid plan prepared under the direction of such commissioners, and filed in the office of the common clerk of said city as aforesaid, and which line, on the western side of said harbour, is described as follows:—"Beginning at a point on said line shown on said plan, by the letter S, near thereto (coloured red,) on a north-easterly prolongation of the south-easterly side line of Rodney Slip, distant one thousand and six hundred and sixty feet from the north-eastern line of Union Street; thence in a southerly direction to a point, T, on an easterly prolongation of the southerly side line of Protection Street, distant one hundred and fifteen feet from the easterly face of the breakwater there; thence to a point, U, one hundred feet due east from the most eastern abutment of the Beacon Light house."

Wharves, how
to be built.

3. All wharves to be erected within or on the eastern side of the said line on the eastern side of the harbour, or within or on the western side of said line on the western side of said harbour, shall be of squared timber, and close built so as to prevent stone, rubbish or gravel from falling into the harbour; and no ballast shall be allowed to be used in the building thereof but stone; and the tops of such wharves shall be covered with good, sound pine, or spruce

timber, or lumber at least six inches in thickness ; and such wharves, to the extent of sixty feet from the fronts thereof, respectively, shall be forever kept free and open for vessels to repair to and load and discharge thereat ; and no houses, or stores, or buildings of any kind, shall at any time be erected on the said spaces so hereby reserved ; and no lumber, or goods of any description, shall be permitted to remain on any such spaces longer than twenty-four hours.

4. Whereas the property fronting on that part of the harbour of the city of Saint John situate between Duke and Saint James Street would be greatly benefited, and the Harbour made more commodious for loading and discharging goods, if a street in continuation of Saint John or Water Street were to be laid out thereon :—It shall not be lawful for the owners of such property to build or authorize to be built, any wharf, pier or other erection on the beach or flats between the line of low water mark and the line for limiting the extension of wharves described herein, unless such owner or owners shall have first conveyed to the mayor, aldermen and commonalty of the said city, a space of not less than fifty feet in width through his or their property, ground, or flats, for the sole and exclusive purpose of continuing Saint John or Water Street, from Duke to Saint James Street, as aforesaid ; but this proviso shall not entitle any such owner to build out to said harbour line, by granting such space as hereinbefore mentioned.

Owners of land between Duke and St. James Streets may build wharves under certain conditions.

Proviso.

5. That an Act passed in third year of the reign of Her present Majesty, intituled, *An Act to limit the extent and regulate the building of wharves on the eastern side of the Harbour of Saint John*, be and the same is hereby repealed, except so far as the same may in any way affect the legal or equitable rights of any party or parties, person or persons, under and by virtue of any indenture of lease, contract or agreement, heretofore made with the mayor, aldermen and commonalty of the city of Saint John, for which purpose the said Act, notwithstanding any thing herein contained, shall continue and be in full force and effect.

Part of Act 3 Vic., repealed.



28 VIC., CHAP. 6.

An Act relating to Marriage and Divorce.

[*Passed 8th June, 1865.*]

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly,—That all affidavits and oaths to be taken and administered in any matter now or that hereafter may be pending in the Court of Divorce and Matrimonial Causes, as also in all suits and proceedings for divorce or nullity of marriage pending in the Court of Governor and Council (in which evidence has been taken and examined prior to the ninth day of April, A.D. 1860), may be taken and administered by any commissioner for taking affidavits to read in the Supreme Court.

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28 VIC., CHAP. 21.

An Act for the protection of Moose.

[*Passed 8th June, 1865.*]

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows :—

* * * * *

8. The exportation or taking out of this province of any moose hides is hereby prohibited, and all moose hides found in the possession of any person or persons shall be liable to be seized and forfeited as hereinafter mentioned, unless the party or parties claiming such hides shall produce a certificate (A) of some one of Her Majesty's justices of the peace of the county, founded on the testimony and examination on oath of the party claiming the same, that the said moose hides were not intended for exportation, or to be taken out of the Province, and that such party or parties had not killed the moose from which the said hides were taken, contrary to the provisions of this Act, within the twelve months next preceeding the date of such certificate.

Exportation of hides prohibited; hides when liable to seizure.

9. The county warden, his deputies, or parish warden, all officers of the revenue, justices and constables, and they and each of them are hereby authorized and empowered to seize all moose hides found in the possession of any person contrary to the provisions of this Act, and shall forthwith proceed before a justice of the peace residing near the place of seizure, for the forfeiture and condemnation of the same: such justice is required to hear the parties, after giving the party from whom the said hides were taken six days' notice of such hearing, in a summary way, and if satisfied that the moose was killed contrary to the provisions of this Act, shall condemn the said hides, and order them to be sold, and the proceeds, after deducting the expenses of condemnation, shall be paid in the manner set forth in the sixth section of this Act.

Wardens authorized to seize hides.

10. If the owner of any moose hides seized be not known, then and in such case the justice, on the application of the county warden, his deputies, or parish warden, shall cause the hides so seized to be advertised in two public places in his

If owner of hides seized be not known, hides to be advertised, and if not

claimed to be
forfeited. parish for the space at least of ten days, and if no claim of ownership is made within the time named, the said justice shall condemn and forfeit the said hides, and order a sale of the same, and the proceeds shall be appropriated, after deducting the expense of such condemnation and sale, in the manner aforesaid, and keep a record of such condemnation in a book to be kept for that purpose.

* * * * *

SCHEDULE A.

I hereby certify, that A.B., of the parish of _____, in the county of _____, and Province of New Brunswick, has produced to me one (or two, as the case may be,) moose hides, and produced testimony to my satisfaction that such hides were not intended for exportation, and that said moose was (or were) killed by him, and that he has not killed the moose from which the hides were taken contrary to the provisions of the Act intituled, *An Act for the protection of Moose.*

Dated the _____ day of _____ A. D. 186 .

C. D.

Justice of the Peace.

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29 VIC., CHAP. 22.

An Act to revive and continue an Act intituled "*An Act for the regulation of Benefit Building Societies.*"

[Passed 16th April, 1866.]

WHEREAS the Act of Assembly made and passed in the tenth year of the reign of Her present Majesty, intituled, *An Act for the regulation of Benefit Building Societies*, hath, by chapter one hundred and sixty-two, title forty-one, of the Revised Statutes, *Of the promulgation and repeal of Statutes*, been repealed; and whereas, at the time of the repeal of the said Act "*The New Brunswick Benefit Building Society and Savings Fund*" was in existence, but has since been closed, and divers mortgages made to the trustees of the said society cancelled; and whereas, since the repeal of the said Act "*The Saint John Building Society and Investment Fund*" hath been formed, and hath been in existence four years and upwards; and whereas, as is recited in and by the said repealed Act, it is desirable to afford encouragement and protection to the societies commonly called Benefit Building Societies, and the property obtained therewith in this Province,—

Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows:—

1. The said Act of Assembly made and passed in the tenth year of the reign of Her present Majesty, intituled, *An Act for the regulation of Benefit Building Societies*, shall be and the same is hereby revived and declared to be and continue in full force and operation from the time of the passing of this Act.

Act 10 V.,
cap. 83, re-
vived.

2. The society now established or existing in the city of Saint John, under the name and style of "*The Saint John Building Society and Investment Fund*," and all Benefit Building Societies hereafter to be established within this Province, shall be entitled to the protection and benefits of the said revived Act.

Saint John
Building
Society, &c.,
protected by
said Act.

3. All the proceedings and business transactions of the said "*New Brunswick Benefit Building Society and Savings Fund*," and of and connected with the Saint John Building Society and Investment Fund, since the time of the repeal

Acts done by
New Bruns-
wick Benefit
Building
Society, &c.,

and St. John
Building
Society, &c.,
when valid.

of the said Act hereby revived (so far as the same shall have been in accordance with the provisions of the said Act), shall be and shall be held to be and to have been as valid and effectual in all respects as if the said *Act for the regulation of Benefit Building Societies* had not been repealed, but had continued in force until the passing of this Act; and all mortgages cancelled by the acting trustees of the said "New Brunswick Benefit Building Society and Savings Fund," in accordance with the rules of the said society and the said Act hereby revived, shall be held to have been duly cancelled and discharged; and the rules and regulations adopted by the members of the said "Saint John Building Society and Investment Fund" (so far as the same shall be in accordance with the terms of the said revived Act), shall be held to have been and shall continue and remain in full force and effect; and the officers of the said society shall respectively continue until such time as they may be displaced and others appointed in their room, pursuant to the said rules; and all moneys, securities for money, books, writings, property and effects, belonging to or made or taken in the name of such society, or the trustees thereof, shall vest in the persons now acting as trustees of the said "Saint John Building Society and Investment Fund," to the use and for the benefit, and subject to the liabilities of the said society, and so from time to time in the succeeding trustees thereof, and the said securities shall in all respects be valid and effectual according to the tenor thereof; and the said "Saint John Building Society and Investment Fund" shall, from its commencement, be held and taken to have been and from henceforth shall be a valid Benefit Building Society under the terms of the said Act hereby revived and continued.

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30 VIC., (1867) CHAP. 10.

An Act to establish County Courts.

[*Passed 17th June, 1867.*]

BE it enacted by the Governor, Legislative Council and Assembly as follows :—

* * * * *

32. The several County Courts and the respective judges thereof, shall have and exercise all the powers and authority vested in the Supreme Court, or the judges thereof, respectively, by chapter one hundred and twenty-four, title thirty-four, of the Revised Statutes, *Of Insolvent Confined Debtors*, and of chapter one hundred and twenty-five, title thirty-four of the Revised Statutes, *Of Absconding, Concealed and Absent Debtors*, and also of an Act made and passed in the twenty-sixth year of the reign of Her present Majesty Queen Victoria, chapter ten, intituled, *An Act to amend Chapter one hundred and twenty-four, title thirty-four, of the Revised Statutes, Of Insolvent Confined Debtors*, and of any other Act or Acts in amendment thereof.

Power of
Courts and
Judges re-
specting in-
solvent con-
fined and
absconding,
concealed or
absent debt-
ors.

* * * * *

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30 VIC., (1867) CHAP 29.

An Act in amendment of twenty-fifth Victoria, Chapter 28, intituled “*An Act relating to Corporations.*”

[*Passed 17th June, 1867.*]

Who to administer oath to non-resident electors; filing of certificate.

BE it enacted by the Governor, Legislative Council and Assembly,—That the oath required in and by the seventh section of the said Act, in case of the directors therein mentioned, or a majority of them, being resident in any foreign country or elsewhere out of the Province of New Brunswick, may be made and taken before any of the persons or authorities duly authorized by the laws of this Province to take the acknowledgments of deeds, or to take an affidavit to be used in any court or legal proceedings in this Province; and the certificate by the said section required may be filed at any time within two years after the payment of the said fifteen per cent. therein mentioned.

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30 VIC., (1867) CHAP. 34.

An Act to amend Chapter 116, Title XXX, of the Revised Statutes, “*Of Bills, Notes, and Choses in Action*,” also Act 12th Victoria, Chapter 39, relating thereto.

[*Passed 17th June, 1867.*]

BE it enacted by the Lieutenant Governor, Legislative Council and Assembly as follows:—

1. That all notes, drafts or orders in writing for a sum certain payable otherwise than in money, shall be deemed and held *primâ facie* to import that they are given for a valuable consideration in like manner as promissory notes for the payment of money.

Notes, &c.,
not payable
in money,
held as *prima
facie* evidence
of value.

* * * * *

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ACTS
OF
BRITISH COLUMBIA.
REVISED STATUTES.

LAW OF THE FORMERLY SEPARATE COLONY
OF VANCOUVER ISLAND.

No. 13.

A. D. 1863.

An Act for Consolidating in one Act certain provisions usually inserted in Acts authorizing the taking of Lands for undertakings of a Public nature.

[25th February, 1863.]

WHEREAS it is expedient to establish certain conditions and provisions upon and in accordance with which land required for undertakings or works of a public nature may be acquired, and the manner of obtaining compensation for the same:

And whereas by an Act passed in the Imperial Parliament in the eighth year of the reign of Her present Majesty, and intituled "*The Land Clauses Consolidation Act, 1845*," the provisions usually introduced into Acts of Parliament relative to the acquisition of lands required for undertakings or works of a public nature were comprised in one general Act; and it was by the said Act enacted that the said "*Land Clauses Consolidation Act, 1845*," should apply to every undertaking authorized by any Act which should be thereafter passed and which should authorize the purchase or taking of lands for such undertaking, and that the said "*Land Clauses Consolidation Act, 1845*," should be incorporated with such Act; and it was also enacted that all the clauses and provisions of the said "*Land Clauses Consolidation Act, 1845*," (save so far as they should be expressly varied or excepted by any such Act) should apply to the undertaking authorized thereby so far as the same should be applicable to such undertaking, and should, as well as the clauses and provisions of every other Act which should

be incorporated with such Act, form part of such Act and be construed together therewith as forming one Act:

And whereas it is expedient that "*The Land Clauses Consolidation Act, 1845*," should apply to undertakings or works of a public nature in Vancouver Island and its dependencies, save where such Land Clauses Consolidation Act is inapplicable from the difference of local circumstances:

Be it therefore enacted by His Excellency the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows:—

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12. The rate of interest payable under clause eighty-five of "*The Land Clauses Consolidation Act, 1845*," shall be twelve per cent. per annum, instead of five per cent per annum.

The rate of interest payable under clause eighty-five to be twelve per cent. per annum in lieu of five.

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LAWS OF THE FORMERLY SEPARATE COLONY OF BRITISH COLUMBIA.

No. 46.

A D 1863.

Proclamation by His Excellency JAMES DOUGLAS, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-Chief of British Columbia, and its Dependencies, Vice-Admiral of the same, &c., &c.

[18th May, 1863.]

WHEREAS, under and by virtue of an Act of Parliament, made and passed in the Session of Parliament held in the 21st and 22nd years of the Reign of Her Majesty Queen Victoria, intituled: "*An Act to provide for the Government of British Columbia,*" and by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, I, James Douglas, have been appointed Governor of the said Colony, and have been authorized by proclamation under the Public Seal of the said Colony, to make laws, institutions and ordinances for the peace, order, and good government of the same:

And whereas doubts have arisen, whether the proclamation made and passed on the 19th day of November, A. D. 1858, imports into the said Colony the laws in force in England for the proper observance of the Lord's Day:

And whereas for the better observance of the same it is expedient that all such doubts should be removed:

Now, therefore, I do hereby declare, proclaim, and enact as follows:—

Declares English Sunday laws in force here.

1. The law statutory and otherwise, and the penalties for the enforcement thereof, as at present existing and in force in England for the proper observance of the Lord's Day commonly called Sunday, as referred to in the schedule hereto, shall be deemed and taken to have been included in the proclamation made and passed on the 19th November, A. D. 1858, and to be of full force and effect in the said Colony, with and under the same penalties, *mutatis mutandis* in all respects as if the said laws had been specially mentioned and enacted in the said proclamation of the 19th day of November, A. D. 1858.

2. The schedule hereto shall be deemed part of this Act. Schedule

3. This Act may be cited as "*The Sunday Observance Act*, Short title. 1863."

THE SCHEDULE

REFERRED TO BY THE FOREGOING ACT.

1 Car. 1, c. 1, so far as the same is applicable to the said Colony.

3 Car. 1, c. 1, so far as the same is applicable to the said Colony.

29 Car. 2, c. 7, so far as the same is applicable to the said Colony.

So much of 1 and 2 William IV, c. 32, s. 3 as forbids the killing or hunting for game on a Sunday or Christmas Day under a penalty of five pounds and the costs of conviction.

11 and 12 Vic., c. 49, so far as the same is applicable to the said Colony.

13 Vic., c. 23, repealing 27 Hen. VI, c. 5, so far as the same is applicable to the said Colony.

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No. 65.

A D. 1866. An Ordinance to amend the Law relating to Joint Stock Companies.

Amended and extended to V. I. by No. 129.

Sections 8, 9 and 10 are provincial. The whole Act is repealed by Schedule A of the Revised Statutes of Canada in so far as it relates to insolvency or to the winding up of companies, for the winding up of which provision has been made by the Parliament of Canada.

[8th March, 1866.]

Preamble.

WHEREAS it is expedient that the laws relating to the incorporation, regulation, and winding up of trading companies and other associations should be consolidated and amended :

Be it therefore enacted by the Governor of British Columbia, by and with the advice and consent of the Legislative Council thereof, as follows :—

Repeal of B. C. Joint Stock Co's Act, and Mining Joint Stock Ordinance, 1864.

1. The "*British Columbia Joint Stock Companies' Act*," and the "*Mining Joint Stock Companies Ordinance, 1864*," are hereby repealed.

Imperial Act. The Companies' Act, 1862, in force.

2. An Act of the Imperial Parliament, passed in the Session of Parliament holden in the twenty-fifth and twenty-sixth years of the reign of Her Majesty Queen Victoria, chapter eighty-nine, intituled "*The Companies Act, 1862*," shall, from and after the passing of this Ordinance, be and have as far as practicable, and save as hereinafter altered and modified, the force of law in this Colony.

The expression "the Court" shall mean the Supreme Court of Civil Justice of British Columbia. Judge thereof to have powers of Lord Chancellor.

3. The expression "The Court" as used therein shall, instead of the interpretation given thereto in clause eighty-one of such Act, mean the Supreme Court of Civil Justice of British Columbia, and any judge of such last mentioned court shall have and exercise all the powers in and by the said Act conferred upon the Lord Chancellor and Vice-Chancellor.

Power to execute deeds out of the United Kingdom.

4. The power given to companies to empower any person as their attorney to execute deeds on their behalf, in any place not situate in the United Kingdom, shall apply to the execution of deeds in this Colony, and such authority shall include a power to companies in this Colony to empower an

attorney to execute deeds on their behalf in the United Kingdom.

5. All fees payable under this Ordinance, shall be the same as those payable under "*The Companies' Act, 1862*:" Fees payable the same as those in England. Provided however, that such shall be collected in the ordinary way, and not by stamps, and be paid into the treasury of this Colony to the use of Her Majesty, Her heirs and successors.

6. Until some other person or persons shall be appointed in that behalf by the Governor, the Colonial Secretary of British Columbia shall have and exercise all the powers and duties of the Board of Trade, in the said Act mentioned. Colonial Secretary to be substituted for Board of Trade. The official liquidator therein mentioned shall be appointed by the said Supreme Court of Civil Justice.

7. Notices, by the said Act required to be published in the gazettes and newspapers therein mentioned, shall, Public notices, how given. instead thereof, be published in the Government Gazette, and in such other newspapers as may be ordered.

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11. The general orders and rules for regulating the practice and mode of procedure under this Ordinance in this colony, shall be those of the High Court of Chancery in England, bearing date the twenty-fifth day of November, one thousand eight hundred and sixty-two: Provided, that it shall be lawful for the judge of the Supreme Court of Civil Justice in British Columbia, with the sanction of the Governor, to modify or alter the same when expedient. General Orders and Rules of 25th November, 1862, in force here.

12. This Ordinance shall be cited as "*The Companies' Ordinance, 1866*." Short title.

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LAWS OF BRITISH COLUMBIA AFTER THE
UNION OF VANCOUVER ISLAND
AND BRITISH COLUMBIA.

No. 74.

A. D. 1867. An Ordinance to provide for the taking of Oaths and admission of Evidence in certain cases.

[15th March, 1867.]

Preamble.

WHEREAS it is expedient to provide for the taking of oaths and admission of evidence in certain cases, and to assimilate the same in all parts of the Colony of British Columbia :

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows :—

* * * * *

Indian unsworn testimony receivable in certain cases.

5. In any civil action, or upon any inquest, or upon any enquiry into any matter or complaint or otherwise, or upon the trial of any crime or offence whatsoever, or by whomsoever committed, it shall be lawful for any court, judge, coroner, gold or other commissioner, or justice of the peace, in the discretion of such court, judge, coroner, gold or other commissioner, or justice of the peace, to receive the evidence of any aboriginal native, or native of mixed blood, of the continent of North America, or the islands adjacent thereto, being an uncivilized person, destitute of the knowledge of God, and of any fixed and clear belief in religion, or in a future state of rewards and punishments, without administering the usual form of oath to any such aboriginal native, or native of mixed blood as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth, and nothing but the truth, or in such other form as may be approved by such court, judge, coroner, gold or other commissioner, or justice of the peace.

Indian information how taken.

6. Provided, that in the case of any proceeding in the nature of a preliminary enquiry, the substance of the evidence or information of any such aboriginal native, or native of mixed blood as aforesaid, shall be reduced to writing,

and signed by a mark by the person giving the same, and verified by the signature or mark of the person acting as interpreter, if any, and of the coroner, justice of the peace, or person before whom such information or evidence shall have been given.

7. The court, judge, coroner, gold or other commissioner, or justice of the peace shall, before taking any such evidence, information or examination, caution every such aboriginal native, or native of mixed blood as aforesaid, that he will be liable to incur punishment if he do not, so as aforesaid, tell the truth. Preliminary caution.

8. The written declaration or examination made, taken and verified in manner aforesaid, of any such aboriginal native, or native of mixed blood as aforesaid, being one of such uncivilized persons as hereinbefore described, may be lawfully read and received as evidence upon the trial of any cause, civil or criminal, in the said Colony, when under the like circumstances the written affidavit, examination, deposition or confession of any person might be lawfully read and received as evidence. Indian declaration evidence.

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No. 85.

A. D. 1867. An Ordinance to assimilate and amend the Law prohibiting the sale or gift of Intoxicating Liquor to Indians.

[2nd April, 1867.]

Preamble.

WHEREAS it is expedient to assimilate the law prohibiting the sale or gift of intoxicating liquor to Indians in all parts of the Colony of British Columbia, and to amend the same :

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows :—

* * * * *

Search for
liquor on
board ship.

10. It shall be lawful for any officer of Customs, or for any superintendent or inspector of police, or any other officer specially appointed by the Governor for that purpose, or for any officer of Her Majesty's navy on full pay, at his discretion, to rummage and search for fermented, spirituous, or intoxicating liquor, any ship, boat, canoe, or other vessel suspected of containing intoxicating liquor for the use of Indians, and upon reasonable ground in that behalf, to detain and seize the same, and bring her for the purpose of investigation and adjudication to any convenient port or place within the said Colony ; and every master of a ship, boat, canoe, or other vessel having on board his ship, boat, canoe, or other vessel, any fermented, spirituous, or intoxicating liquors not satisfactorily accounted for, shall forfeit and pay a penalty not exceeding one thousand dollars, and all such last mentioned fermented, spirituous, or intoxicating liquors shall be forfeited.

On what con-
ditions liquor
may be ship-
ped to the
North-west
Coast.

11. No ship, boat, canoe, or other vessel having fermented, spirituous, or intoxicating liquors on board shall leave any port in the Colony of British Columbia for any part of the coast of the said Colony, or for any port or place on the coast of Russian America, or to the northward thereof, without the master of such ship, boat, canoe, or other vessel, making a declaration in the form marked 1 in the schedule to this Ordinance, setting forth the quantities, description, and destination of such liquors as aforesaid as may be on board, and obtaining from the officer of Customs,

at the port of departure, a permit to carry such liquors, which permit may be in the form marked 2, in the said schedule. It shall be lawful, however, for the Governor to exempt any vessel from the operation of this section of this Ordinance, whenever the circumstances shall be such as, in the opinion of such Governor, to render such exemption expedient and desirable.

* * * * *

SCHEDULE.

FORM 1.

Shipping Bill for Fermented, Spirituous or Intoxicating Liquors.

Name and Description of Ship, Boat, Canoe or other Vessel.	Whether British or Foreign; if Foreign, the Country.	Master's Name.	Port or Place of Destination.	Quantity and Description of Liquors on Board.	To whom Consigned, or if for Ship's use.	

I declare the entries in this bill to be correctly made.

(Signed) _____,

Master of the above Ship.

[Station of Clearance.]

Dated this day of , 18 .

FORM 2.

Permit to carry Fermented, Spirituous or Intoxicating Liquors.

Name and Description of Ship, Boat, Canoe or other Vessel.	Whether British or Foreign; if Foreign, the Country.	Master's Name.	Port or Place of Destination.	Quantity and Description of Liquors on Board.	To whom Consigned, or if for Ship's use.	

The Fermented, Spirituous or Intoxicating Liquors above described are hereby permitted to be carried and borne to the destinations and for the purposes above specified.

(Signed) _____,

[Name and description of Officer.]

[Station of Clearance.]

Dated this day of , 18 .



No. 89.

A. D. 1867. An Ordinance to regulate the Solemnization of Marriage.

[2nd April, 1867.]

Preamble.

WHEREAS it is expedient to assimilate the laws regulating the solemnization of marriage in all parts of the Colony of British Columbia :

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows :—

* * * * *

In matters not herein provided for, the law of England to prevail.

19. Provided always, that in all matters relating to the mode of celebrating marriages, or the validity thereof, and the qualification of parties about to marry, and the consent of guardians or parents, or any person whose consent is necessary to the validity of such marriage, the law of England shall prevail, subject always to the provisions of this Ordinance.

Whom may give consent.

20. The father, if living, of any party under twenty-one years of age, such party not being a widower or widow ; or if the father shall be dead the guardian or guardians of the person of the party so under age, lawfully appointed, or one of them ; and in case there shall be no such guardian or guardians, then the mother of such party if unmarried ; and if there shall be no mother unmarried, then the guardian or guardians of the person appointed by the Court of Chancery, if any, or any one of them, shall have authority to give consent to the marriage of such party ; and such consent is hereby required for the marriage of such party so under age, unless there shall be no person authorized to give such consent.

If consent unduly refused.

21. That in case the father or fathers of the parties to be married, or one of them, so under age as aforesaid, shall be *non compos mentis*, or beyond the seas, or the guardian or guardians, mother or mothers, or any of them, whose consent is made necessary as aforesaid to the marriage of such party or parties, shall be *non compos mentis*, or in parts beyond the seas, or shall unreasonably or from undue motives refuse or withhold his, her, or their consent to a proper marriage, then it shall and may be lawful for any person desirous of marrying in any of the before mentioned

cases, to apply by petition to a judge of the Supreme Court of Civil Justice, who shall judicially declare the same to be so ; and such judicial declaration shall be deemed and taken to be as good and effectual to all intents and purposes as if the father, guardian or guardians, or mother of the person so petitioning had consented to such marriage.

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No. 116.

A.D. 1869.

An Ordinance to amend the Law of Partnership.

[10th March, 1869.]

Preamble.

WHEREAS it is expedient to amend the law relating to partnership :

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows:—

* * * * *

Advance of money on contract to receive a share of profits, not to make lender a partner.

[2. *The advance of money, by way of loan, to a person engaged or about to engage in any trade or undertaking upon a contract in writing with such person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on such trade or undertaking, shall not of itself constitute the lender a partner with the person or persons carrying on such trade or undertaking, or render him responsible as such*]

* * * * *

In case of bankruptcy, &c., lender not to rank with other creditors.

6. In the event of any such trader as aforesaid being adjudged a bankrupt, or taking the benefit of any Act for the relief of insolvent debtors, or entering into an arrangement to pay his creditors less than one hundred cents in the dollar, or dying in insolvent circumstances, the lender of any such loan as aforesaid shall not be entitled to recover any portion of his principal or of the profits or interest payable in respect of such loan, nor shall any such vendor of a good-will as aforesaid be entitled to recover any such profits as aforesaid, until the claims of the other creditors of the said trader for valuable consideration in money or money's worth have been satisfied.

* * * * *

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No. 128.

An Ordinance to encourage the Establishment of Investment and Loan Societies.

A.D. 1860.
Amended by
No. 165.

[20th August, 1869.]

WHEREAS it is expedient that encouragement should be given to the establishment of societies having for their object the accumulation of money in this Colony, and the investment thereof: Preamble.

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows:—

1. In case any twenty or more persons agree to constitute themselves into a society under this Ordinance, and execute under their respective hands and seals a declaration to that effect, and deposit the same with the registrar of joint stock companies (who shall grant his certificate thereof, and for the granting of such certificate and receiving and registering such declaration, shall be entitled to a fee of five dollars), such persons and such other persons as afterwards become members of the society, and their several and respective executors, administrators and assigns, shall be a corporation, body corporate and politic, under this Ordinance, with the power to hold lands as hereinafter mentioned, by the name and style mentioned in such declaration, for raising by periodical subscriptions, in sums not exceeding ten dollars per month, or otherwise of or from the several members of the society, in shares (not exceeding the value of five hundred dollars for each share), a stock or fund for investment on real security in Great Britain or Ireland, British Columbia, or any other of Her Majesty's possessions, and for enabling persons to become members of such society at any time, either for investment of capital therein or to obtain the advance of their shares or share by giving security therefor, without being liable to the contingency of losses or entitled to participate in the profits in the business of the said society; and the certificate of the registrar of joint stock companies, of such declaration as aforesaid having been deposited, shall be conclusive evidence of the incorporation of the society in such certificate mentioned. Societies how incorporated.

The date of such certificate shall be the date of incorporation of the society; and the liability of the members shall Power to hold lands.

Evidence of incorporation.

Date of incorporation.

Liability of members. be limited to the payment of the amount unpaid on the shares held by them respectively.

Members of Society may make rules ; **2.** The several members of the society holding unadvanced shares thereon, may from time to time assemble together and make such proper rules for the government of the society as the majority of the members so assembled deem meet, so as such rules are not repugnant to the provisions of this Ordinance, or any Act or other Ordinance then in force in British Columbia ; and they may impose and inflict such reasonable fines, penalties and forfeitures upon the several members of the society infringing such rules, as such majority of the members think fit, to be respectively paid to such uses, for the benefit of the society, as the society by such rules direct ; and they may also from time to time amend or rescind such rules, and make new rules in lieu thereof, under such restrictions as are in this Ordinance contained.

Impose fines ;

Amend or rescind rules.

Society shall, by rule, declare objects of Society. **3.** Every such society shall, in or by one or more of their rules, declare the objects for which the society is intended to be established, and thereby direct the purposes to which the money from time to time subscribed to, received by or belonging to the society shall be appropriated, and in what shares or proportions, and under what circumstances any member of the society or other person may become entitled to the same or any part thereof.

How money to be appropriated.

Rules to specify time and place of holding meeting, and define powers and duties of members and officers. **4.** The rules of the society shall specify the place or places at which it is intended that the society shall hold its meetings, and shall contain provisions with respect to the powers and duties of the members at large, and of the officers appointed for the management of its affairs.

Election of Directors.

5. Every such society shall from time to time elect and appoint any number of the members of the society to be a board of directors, the number and qualification thereof to be declared in the rules of the society, and may delegate to such directors all or any of the powers given by this Ordinance to be executed.

Power of Directors to be declared by rules.

6. The powers of the directors shall be declared by the rules of the society, and they shall continue to act during the time appointed by such rules, and until others are appointed.

Rules to provide that Treasurer shall furnish annual statements of funds.

7. The rules of the society shall provide that the treasurer, or other principal officer thereof, shall once at least in every year prepare a general statement of the funds and effects of or belonging to the society, and the value of such effects, specifying in whose custody or possession such funds and effects are then remaining, together with an

account of all sums of money received or expended by or on account of the society since the publication of the preceding periodical statement. Every such periodical statement shall be attested by two or more members of the society, not being directors, who shall be elected auditors for that purpose by the shareholders, and shall be countersigned by the secretary or clerk for the society, and every member shall be entitled to receive from the society, without charge, a copy of such periodical statement.

Statement to be attested by Auditors.

8. The rules for the management of every such society shall be recorded in a book kept for that purpose, and such book shall be open at all reasonable times for the inspection of the members; and a copy of such rules shall be registered by the registrar of joint stock companies, and certified by him before they shall be binding on the society.

Rules to be recorded in a book.

Copy of Rules to be certified by Registrar of Joint Stock Co's.

9. The rules so recorded shall be binding on the several members and officers of the society, and the several contributors thereto, and their representatives, and they shall be deemed to have full notice thereof by such record.

Rules so recorded to be binding on members.

10. The entry of the rules in the books of the society, or a true copy of the same, examined with the original, and proved to be a true copy, shall be received as evidence thereof.

Examined copy of rule to be evidence.

11. No rules, so recorded as aforesaid, shall be altered or rescinded, nor shall any rule be created except at a general meeting of the members convened by public notice, written or printed, signed by the secretary or president of the society, in pursuance of a requisition for that purpose made by not less than fifteen of the members, stating the objects for which the meeting is called, and addressed to the president and directors, and unless such general meeting do consist of not less than one-third of the shareholders present in person or by proxy, representing not less than two-thirds of the unadvanced stock of such society, and the majority of such members present as aforesaid do in writing under their hand concur in such alteration or repeal of such rule, or in the creation of any new rule; and no such rule shall be deemed to have been altered, repealed or created, until the alteration, repeal, or creation, shall have been assented to by the registrar of joint stock companies, in writing under his hand. Each member of the society shall, within fifteen days after the receipt of such requisition by the president or treasurer, be notified by circular of the proposed alterations, repeal, or addition.

Rules not to be altered except at a special general meeting.

Meeting to consist of $\frac{1}{3}$ of shareholders representing not less than $\frac{2}{3}$ of unadvanced stock, and majority consent in writing.

Rules not to be altered until alteration assented to by Registrar of Joint Stock Co's.

Members to be notified of proposed alterations.

12. When any share or shares in the capital of any society has or have become due and payable to the holder thereof, he may either withdraw the amount of such share or shares

Shareholder whose share is paid up may receive or in-

vest the
amount.

Permanent
stock trans-
ferable only.

Except in
cases of with-
drawal, mem-
bers not to
receive profits
in shares,
other than in
permanent
stock, until
maturity.

Society may
limit number
of shares, and
may charge
a premium on
new shares.

Shares may be
forfeited.

Members may
be expelled.

Society may
sue members.

In certain
cases, powers
of Directors
to be recorded
in books of
Society.

Election of
President and
Vice-Presi-
dent.

Concurrence
of majority of
Directors
necessary.

Quorum to be
present.

from the said society, according to the rules and regulations thereof, or invest the amount of his said share or shares as fixed or permanent stock of the society, and receive therefrom periodically such proportion of the profits made by such society as may be provided for by the rules of the society. The moneys invested in fixed and permanent stock may not be withdrawn therefrom, but may be transferred in the same manner as other shares in the same society.

13. Except in the case of the withdrawal of a member according to the rules of the society then in force, no member shall receive, or be entitled to receive from the funds of the society, in respect of any share which is not invested as permanent stock, any interest or dividend by way of annual or other periodical profit upon any share in the society, until after the expiration of the term for which such share was originally granted, or such shorter period as, under the rules of the society, may have been substituted therefor.

14. Every such society may from time to time limit the number of shares to be granted, and, except in cases provided for in section twelve, may charge a premium on any new share.

15. Every such society may, after reasonable notice in writing, declare forfeited to the society the shares of any member who is in default, or who neglects to pay the number of instalments or monthly subscriptions fixed by any stipulation or by-law, and may expel such members from the society, and the secretary shall make a minute of such forfeiture and expulsion in the books of the society.

16. In case any payment either on account of subscriptions, instalments, fines, or for expenses in relation to any security, or otherwise, is due or payable to any such society from any member thereof, the same may be recovered by action or suit in the usual manner.

17. In case a sub-committee of directors is appointed for any particular purpose, the powers delegated to them shall be reduced to writing, and entered in a book, by the secretary or clerk of the society.

18. The directors shall choose a president and vice-president, and they shall in all things delegated to them act for and in the name of the society, and a concurrence of a majority of the directors present at any meeting shall at all times be necessary in any act of the board; and no business shall be transacted at any meeting of directors, unless a quorum of directors, as prescribed by the rules, be present thereat.

19. The transactions of the directors shall be entered in a book belonging to the society, and shall at all times be subject to the review of the society, in such manner and form as the society by their general rules shall direct and appoint.

Proceedings of Directors to be entered in books of Society.

20. All acts and orders of such directors under the powers delegated to them shall have the like force and effect as the acts and orders of the society at the general meeting.

Acts of Directors to be binding.

21. The directors shall from time to time, at any of their usual meetings, appoint such persons as they shall think proper to be officers of the society, grant such salaries and emoluments as they deem fit, and pay the necessary expenses attending the management of the society; and shall from time to time, when necessary, elect such persons as may be necessary for the purposes of the society, for the time and for the purpose expressed in the rules of the society; and shall from time to time, for incompetence or misbehaviour, discharge such persons, and appoint others in the room of those who vacate, die, or are discharged.

Directors at meeting to appoint officers.

To remove officers for incompetence or misbehaviour.

22. Every such officer or other person appointed to any office in anywise concerning the receipt of money shall, before entering upon the duties of his office, execute a bond, with two sufficient sureties, in such form and for such amount as the directors determine, for the just and faithful execution of his office, according to the rules of the society.

Officers appointed to receive money to give security.

* * * * *

24. Every such society may take and hold any property or securities thereon, *bonâ fide* mortgaged or assigned to it, either to secure the payment of the shares subscribed for by its members, or to assure the payment of any debts due to the said society, and may become the absolute owner thereof by foreclosure.

Society may become absolute owner by foreclosure of any property mortgaged to it.

25. Whenever any such society has received from a [shareholder] an assignment, mortgage, or transfer of any property to secure the payment of any advance made by, or debt due to, such society, and containing an authority to such society to sell such property in case of non-payment of any stipulated number of instalments or sums of money, and to apply the proceeds of such sale to the payment of the advances, interest, and other charges due to the society, such stipulations and agreements shall be valid and binding, and the society may cause the same to be enforced; and may proceed on any such security for the recovery of the moneys thereby secured, either at law or in equity, or otherwise, and generally may also pursue the same course, exercise the

Amended by No. 165.

In certain cases. Society may proceed in mortgage by sale, &c.

same powers, and take and use the same remedies, to enforce the payment of any debt or demand due to the society as any person or body corporate may by law take or use for a like purpose.

After default for 3 months successively Society may sell property held in mortgage.

26. In case of default being made in payment of any sum of money secured, or intended to be secured, by any deed of security taken by any such society, or any part of any such sum, for the space of three months successively after any or either of the days or times at which the same became payable, it shall be lawful for such society to offer the property comprised in any such deed of security, or any part or parts of such property, for sale by public auction, and either together or in parcels.

Representatives of deceased officers of Society to deliver over papers and moneys after demand.

27. If any person appointed to an office by the Society, and being intrusted with and having in his possession, by virtue of his office, any moneys or effects belonging to the society, or any deeds or securities relating thereto, dies or becomes bankrupt or insolvent, his legal representative, or other person having a legal right, shall within fifteen days after demand made by the orders of the directors of the society, or the major portion of them assembled at any meeting thereof, deliver over all things belonging to the society to such person or persons as the directors appoint.

Ordinance to extend to aliens, &c., but no *feme covert* or infant to be a Director.

28. This Ordinance shall extend to aliens, denizens, females, co-partners, and corporate bodies. Females and infants may hold shares in any society incorporated under this Ordinance, in the same manner as male adults; and for the purpose of dealing with such shares, shall be considered as *femes soles* or male adults respectively; and this Ordinance shall be construed in the most beneficial manner for promoting the ends thereby intended; but no *feme covert* or infant shall be a director of any such society.

How Society may invest surplus funds.

29. Every such society may invest any surplus funds in the stocks of any chartered bank in, or other public security of, the Colony; and all dividends, interest, and proceeds arising therefrom shall be brought to account and be applied to the use of the society, according to the rules thereof.

Amount Society may borrow limited.

30. Every such society by its rules, regulations or by-laws authorized to borrow money, shall not borrow, receive, take or retain, otherwise than in stock and shares in such society, from any person or persons, any greater sum than three-fourths of the amount of capital actually paid in on unadvanced shares, and invested in securities or in property by such society; and the whole of the property and capital of the society shall be liable for the amount so borrowed, received or taken by any such society.

31. Any such society may hold absolutely real estate for the purposes of its place of business, not exceeding the annual value of three thousand dollars in any one place, exclusive of the improvements which may be made by any such society thereon.

Real estate for place of business.

32. Such society shall not be bound to see to the execution of any trust, whether expressed, implied or constructive, to which any share or shares of its stock may be subject; and the receipt of the party in whose name any such share or shares stand in the books of the society, or if such share or shares stand in the names of more parties than one, the receipt of one of the parties shall from time to time be a sufficient discharge to the society for any payment of any kind made in respect of such share or shares, notwithstanding any trust to which such share or shares may then be subject, and whether or not such society has had notice of such trust; and the society shall not be bound to see to the application of the money paid upon such receipt.

Society not bound to see to trust to which its stock is subject.

What receipt sufficient.

33. No portion of the funds of any society established under this Ordinance shall be advanced to any or either of the directors of such society, nor to nor for his or their use, upon any security or otherwise; and should any advance be made contrary to the spirit of this Ordinance, the director or directors receiving the same shall forfeit to the society a sum equal to ten times the amount so advanced, and shall cease to be a director of such society.

No loan to be made to a Director.

Any Director receiving a loan to pay a fine of ten times the amount received.

34. Every such forfeit or fine may be recovered before a stipendiary magistrate of British Columbia, in a summary way, by warrant of distress of the goods and chattels of such director or directors. In case of default of payment of such forfeit or fine, and of the insufficiency of such distress, such director or directors shall be liable to imprisonment for a term not exceeding twelve calendar months, at the discretion of the magistrate who shall have issued the warrant of distress.

Recovery of fine.

35. In case any director or directors, the secretary and treasurer, or secretary, or treasurer, or clerk of any such society shall take, charge, or receive any bribe, commission or gratuity for negotiating any loan from, or procuring any advance to be made by any such society, such person or persons shall incur a penalty of five hundred dollars, and shall, upon conviction thereof, be removed from office, and forfeit to the society all his or their interest in such society.

Officers who receive a bribe or commission to procure a loan to incur a penalty of \$500.

36. If the directors of any such society shall declare any dividend when the society is known by them to be insolvent, or any dividend, the payment of which would to their knowledge render it insolvent, they shall be jointly and

Directors to be liable for debts if dividend declared when the Society is

known by
them to be in-
solvent.

severally liable to the extent of the aggregate amount of the dividend so declared, for all the debts of the company then existing, and for all that shall be thereafter contracted, so long as they shall respectively continue in office: Provided always, that if any of the directors shall be absent at the time the dividend or dividends shall be so declared, or shall object thereto, and shall forthwith file their objection in writing with the secretary or clerk of the society, they shall be exempt from the said liability.

No portion of
profits of So-
ciety to be
divided until
[the table on
which the se-
curities held
by the Society
have been val-
ued shall have
been sanction-
ed by an officer
to be appointed
by the Gover-
nor.]

37. Inasmuch as the stability of societies established under this Ordinance will depend in great measure on the valuation of the assets of such societies, and the division of the profits from time to time found or declared to have been made by such societies, no such society shall be at liberty to divide any of the profits found or declared to have been made by such society, until [the table on which the securities held by such society have been valued shall have been sanctioned or approved of by such officer as the Governor or officer administering the Government may from time to time appoint; and if any dividend shall be paid on or in respect of any share in the capital of such society before such table as aforesaid shall have been sanctioned or approved as aforesaid, each of the directors who shall not have objected thereto, and shall not have filed his objection in writing with the secretary or clerk of the society, before any such payment, shall incur a penalty of five hundred dollars.]

When the as-
sets of Society
to be valued
and accounts
are to be
audited.

Return to be
made to Col-
onial Secre-
tary.

38. In the month of December in each year, the assets of the society shall be valued, and the accounts audited; and on or before the fourteenth day of the month of January then following, a return, duly verified by the declarations of the auditor and treasurer, shall be made to the Colonial Secretary, in which shall be stated in a tabular form:—

The name of the society;

The nominal capital;

The actual capital;

The number of unadvanced shares held in accumulating stock, and the amount paid thereon;

The amount of permanent stock not deposited as security for moneys advanced by the society;

The amount borrowed or received on deposit;

The nature of the presumed assets, with a concise statement of the securities in a tabular form;

The losses and expenses during the year;

The profits divisible per share;

And such other information as the Governor or officer administering the Government shall, from time to time, by notice published in the *Government Gazette*, order or require.

39. If any society established under this Ordinance makes default in making a return to the Colonial Secretary, in compliance with the foregoing directions, such society shall incur a penalty not exceeding twenty-five dollars for every day during which such default continues.

Penalty on default in making return.

40. Upon the application of one-fifth in value of the holders of unadvanced shares in any society established under this Ordinance, the Governor or officer administering the Government may appoint one or more inspectors to examine into the affairs of the society, and to report thereon in such manner as he may direct.

Examination of affairs of Society by Inspector approved by the Governor.

41. It shall be the duty of all officers and agents of the society to produce for the examination of the inspectors all books and documents in their custody or power. Any inspector may examine upon oath the officers and agents of the society, in relation to its business, and may administer such oath accordingly. If any officer or agent refuses to produce any such book or document, or to answer any question relating to the affairs of the society, he shall incur a penalty not exceeding twenty-five dollars in respect of such offence.

Powers of Inspector.

42. Upon the conclusion of the examination, the Inspectors shall report their opinion to the Colonial Secretary. Such report shall be written or printed, as the Colonial Secretary directs. A copy shall be forwarded by the Colonial Secretary to the registered office of the society, and a further copy shall, at the request of the shareholders upon whose application the inspection was made, be delivered to them, or to any one or more of them. All expenses of and incidental to any such examination aforesaid, shall be defrayed by the shareholders upon whose application the inspectors were appointed.

Result of examination how dealt with.

43. Any society registered under this Ordinance may, in a general meeting, appoint inspectors for the purpose of examining into the affairs of the society. The inspectors so appointed, shall have the same powers and perform the same duties as inspectors appointed by the Governor or officer administering the Government, with this exception; that, instead of making their report to the Colonial Secretary, they shall make the same in such manner and to such persons as the society in general meeting directs; and the officers and agents of the society shall incur the same penalties in case of any refusal to produce any book or document to such inspectors, or to answer any questions, as they would have incurred if such inspectors had been appointed by the Governor.

Power of Society to appoint Inspector.

44. A copy of the report of any inspectors appointed under this Ordinance, authenticated by the seal of the society

Official copy of report of Inspectors to be evidence.

into whose affairs they have made inspection, shall be admissible as evidence in any legal proceeding.

Recovery of penalties other than those provided for in Section 34.

45. All offences under this Ordinance, other than those provided for by section thirty-four of this Ordinance, made punishable by any penalty, may be prosecuted summarily before two or more justices, in manner directed by an Act passed in the Session holden in the eleventh and twelfth years of the Reign of Her Majesty Queen Victoria, chapter forty-three, intituled "*An Act to facilitate the performance of the duties of Justices of the Peace out of Session, within England and Wales, with respect to summary convictions and orders.*"

Application of penalties.

46. The justices imposing any penalty under this Ordinance, may direct the whole or any part thereof to be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding the person on whose information or at whose suit such penalty has been recovered; and subject to such directions, all penalties shall be paid to the treasurer of the Colony, and shall be carried to the credit and form part of the revenue of the Colony.

Service of notice.

47. Notices requiring to be served by the company upon shareholders, may be served either personally, or by leaving the same, or sending them through the post office in a letter addressed to the shareholders at their registered places of abode.

In case of joint owners of a share, on whom notice to be served.

48. All notices directed to be given by the societies shall, with respect to any share to which persons are jointly entitled, be given to whichever of the said persons is named first in the register of the societies, and notice so given shall be sufficient notice to all proprietors of such share.

How notice to be advertised.

49. All notices required by this Ordinance to be given by advertisement, shall be advertised in a newspaper circulating in the city or district in which the registered office of the society is situated.

Provision as to winding up of company.

50. The provisions of any Ordinance or Act for the time being in force in British Columbia, relating to the winding up of companies, shall apply to all societies incorporated under this Ordinance.

Interpretation clause.

51. The word "society" in the foregoing sections of this Ordinance shall be understood to include and to mean any society, company, or institution established under the provisions and authority of this Ordinance; the word "rules" to include rules, orders, by-laws, and regulations; and whenever in this Ordinance in describing or referring to

any person or party, matter or thing, any word importing the masculine gender or singular number is used, the same shall be understood to include and shall be applicable to several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing, unless it otherwise be provided or there be something in the subject or context repugnant to such construction.

52. This Ordinance may be cited for all purposes as Short title.
“*The Investment and Loan Societies Ordinance, 1869.*”

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Excellent Majesty.



No. 129.

A. D. 1869.
Vide No. 65.

An Ordinance respecting "*The Companies' Ordinance, 1866.*"

This Act is repealed by Schedule A of the Revised Statutes of Canada in so far as it relates to insolvency or to the winding up of companies, for the winding up of which provision has been made by the Parliament of Canada.

[20th August, 1869.]

Preamble.

WHEREAS it is expedient to amend "*The Companies' Ordinance, 1866,*" and also to extend the provisions thereof to that part of this Colony formerly known as Vancouver Island and its dependencies :

Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows :—

Repeals Act
of 1860

1. The "*Vancouver Island Joint Stock Companies' Act, 1860,*" is hereby repealed ; but such repeal shall not invalidate any acts heretofore done, or affect any rights acquired under such Act.

Ordinance
of 1866 ex-
tended.

2. From and after the passing of this Ordinance, "*The Companies' Ordinance, 1866,*" and all the provisions and enactments thereof shall, save as hereinafter modified, have full force and effect throughout the Colony.

Registrar.

3. The Governor may from time to time appoint such person as he shall think proper to act as Registrar of Joint Stock Companies.

Interpreta-
tion of terms.

4. The expression, "the court" used in section three of "*The Companies' Ordinance, 1866,*" shall in its interpretation also mean the "Supreme Court of Vancouver Island," and every chief justice or judge thereof ; and the words "the Supreme Court of Civil Justice" in section six of the said Ordinance, shall be construed to mean the Supreme Court of the Mainland of British Columbia and the Supreme Court of Vancouver Island respectively, and any chief justice or judge thereof.

Rules or Or-
ders may be
varied.

5. All the words after the figures "1862" in clause eleven of the said Ordinance, are hereby repealed ; and instead thereof the following words shall be read as part of such clause :—

“provided that it shall be lawful for the chief justice or judge of either of the said Supreme Courts of this Colony, with the sanction of the Governor, to vary or modify such rules or orders as occasion may require.”

6. The said “*Companies’ Ordinance, 1866*,” and this Ordinance shall be construed and read together as one Ordinance, and be cited as “*The Companies’ Ordinance, 1869*.”

Companies’
Ordinance,
1866, to be
read with
this.
Short title.

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Excellent Majesty.



No 157.

A. D. 1871. An Act to regulate Elections of Members of the Legislature of this Colony.

[22nd March, 1871.]

Preamble.

WHEREAS by a proclamation, bearing date the thirteenth day of October, eighteen hundred and seventy, and issued by the Governor of this Colony, under and by virtue of the powers and authorities conferred upon him by the "*British Columbia Act, 1870*," and by the Order of Her Majesty in Council, bearing date the ninth day of August, eighteen hundred and seventy, made in pursuance of the said Act, certain provisions (amongst other things) were made as to the regulation of elections of members of the Legislative Council :

And whereas it is desirable to amend the law as established by the said proclamation, by making other and further provisions as to the regulation of the elections of Members of the Legislature :

Be it therefore enacted by the Governor and Council, with the advice and consent of the Legislative Council, as follows :—

* * * * *

In any indictment under this Act.

103. It shall be sufficient, in any indictment or information for any offence committed contrary to this Act, to allege the particular offence charged upon the defendant, and that the defendant is guilty thereof, without mentioning the writ of election, or the return thereof, or the authority of the returning officer founded upon any such writ of election.

On the trial, writ, &c., need not be produced.

104. It shall not be necessary, on the trial of any suit or prosecution under this Act, to produce the writ of election, or the return thereof, or the authority of the returning officer, founded upon any such writ of election, but general evidence of such facts shall be sufficient evidence.

Limitation of suits under this Act.

105. Every action, suit or information given by this Act shall be commenced within the space of one year next after the act committed, and not afterwards.

* * * * *



No. 158.

An Act to prevent Bribery, Treating, and Undue Influence at Elections of Members of the Legislature. A. D. 1871.

[27th March, 1871.]

WHEREAS it is advisable to prohibit and, as far as possible, to prevent by legislative enactment, all bribery, treating, and undue influence at elections of Members of the Legislature: Preamble.

Be it therefore enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows:—

* * * * *

14. It shall not be lawful for any court to order payment of the costs of a prosecution for any offence against the provisions of this Act, unless the prosecutor shall, before or upon the finding of the indictment or the granting of the information, enter into a recognizance, with two sufficient sureties, in the sum of two hundred and fifty dollars (to be acknowledged in like manner as would be now required in cases of *certiorari* awarded at the instance of a defendant in an indictment) with the conditions following, that is to say: that the prosecutor shall conduct the prosecution with effect, and shall pay to the defendant or defendants, in case he or they shall be acquitted, his or their costs. Prosecutor not to be entitled to costs unless he shall have entered into a recognizance to conduct prosecution and pay costs.

15. No person shall be liable to any penalty or forfeiture hereby enacted or imposed, or to be tried for a misdemeanor or other offence under this Act, unless some prosecution, action, or suit for the offence committed, shall be commenced against such person within the space of one year next after such offence against this Act shall be committed, and unless such person shall be summoned or otherwise served with writ or process within the same space of time, so as such summons or service of writ or process shall not be prevented by such person absconding or withdrawing out of the jurisdiction of the court out of which such writ or other process shall have issued as aforesaid, the same shall be proceeded with and carried on without any wilful delay. Limitation of actions.

16. In any indictment or information for bribery or undue influence, and in any action or proceeding for any penalty for bribery, treating, or undue influence, it shall be General allegations sufficient in indictments.

sufficient to allege that the defendant was at the election at or in connection with which the offence is intended to be alleged to have been committed guilty of bribery, treating, or undue influence (as the case may require); and in any criminal or civil proceedings in relation to any such offence, the certificate of the returning officer in this behalf shall be sufficient evidence of the due holding of the election, and of any person therein named having been a candidate thereat.

In actions for penalties, parties, &c., to be competent witnesses.

17. On the trial of any action for recovery of any pecuniary penalty under this Act, the parties to such action, and the husbands and wives to such parties respectively, shall be competent and compellable to give evidence, in the same manner as parties and their husbands and wives are competent and compellable to give evidence in actions and suits under the Acts of the Parliament of Great Britain and Ireland, fourteenth and fifteenth Victoria, chapter ninety-nine, and "*The Evidence Amendment Act, 1853*," so far as the same are in force in this Colony, but subject to and with the exceptions contained in such several Acts: Provided always, that any such evidence shall not thereafter be used in any indictment or criminal proceeding under this Act against the party giving it.

* * * * *

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No. 165.

An Act to amend the "*Investment and Loan Societies Ordinance, 1869.*" A. D. 1871.

[28th March, 1871.]

WHEREAS it is expedient to amend the "*Investment and Loan Societies Ordinance, 1869 :*" Preamble.

Be it therefore enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows :—

1. Section twenty-three of the "*Investment and Loan Societies Ordinance, 1869,*" is hereby repealed. Repeals section 23 of Ordinance of 1869.

2. No society shall be incorporated under the provisions of the said Ordinance, under a name identical with that by which a subsisting society is already incorporated, or so nearly resembling the same as to be calculated to deceive. Societies to have different names.

3. Every person who shall have signed the rules of any society incorporated under the provisions of the said Ordinance shall be deemed to be a member of the society. Who shall be a member of any Society.

4. Any transfer of the share or other interest of a deceased member of any society, under the said Ordinance, made by his personal representative shall, notwithstanding such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer. Transfer of share of deceased member valid.

5. Such society may advance to members, other than any or either of the directors thereof, on the security of unadvanced shares in permanent stock of the said society, or of real property, any portion of the funds of such society, not exceeding the amount in value of such unadvanced shares or of such real property, and may receive and take from any person or persons, or bodies corporate, any collateral, further, or additional security for any advances made as aforesaid: Provided, that if it is agreed that any building or other permanent improvement shall be placed on any such real property as aforesaid, with the moneys or other portion thereof, to be advanced by such society, the value of such building or permanent improvement may be estimated in To whom funds of Society may be advanced.

Value of building placed on property with money advanced by Society, may be estimated

in appraising its value, if a bond is given securing its erection.

appraising the value of such real property, if a bond is given to such society for the purpose of securing the erection of such building or the making of such permanent improvement.

Amends section 25 of Ordinance of 1869.

6. Section twenty-five of the said Ordinance shall be and is hereby amended by striking out the word "Shareholder," and inserting the word "Member" in lieu thereof.

Amends section 37 of Ordinance of 1869.

7. Section thirty-seven of the said Ordinance shall be amended by striking out the whole of the remaining portion of the section after the word "until" in the sixth line thereof, and by inserting the following words:—"the principal upon which such profits have been computed, and are so found and declared, or are intended to be so found and declared, shall have been sanctioned or approved of by such officer as the Governor or officer administering the Government may from time to time appoint, who shall be entitled to a fee of fifteen dollars for granting a certificate of approval; and if any dividend shall be paid on or in respect of any share in the capital of such society, before such principal as aforesaid shall have been sanctioned or approved as aforesaid, each of the directors who shall not have objected thereto, and shall not have filed his objection in writing with the secretary or clerk of the society before any such payment, shall incur a penalty of five hundred dollars."

Who may draw notes, bills of exchange, or receipts for a Society.

8. A promissory note, or bill of exchange, or a receipt or other acknowledgment for money deposited with the society at interest, shall be deemed to have been made, drawn, endorsed, or given on behalf of the society, if made, drawn, accepted, endorsed or given in the name of the society, by the president or vice-president, and the treasurer of the society.

Method of appointing attorney.

9. Any such society may, by instrument in writing under its common seal, empower any person, in respect of any specified matter, as its attorney, to execute deeds on its behalf, and every deed signed by such attorney on behalf of the society, and under his seal, shall be binding on the society and have the same effect as if it were under the common seal of the society.

Differences may be referred to arbitration.

10. Any such society may from time to time by writing under its common seal, agree to refer, and may refer to arbitration, any existing or future difference, question, or other matter whatsoever in dispute between itself and any other society, company, or person, in like manner as if it were incorporated under the "*Companies' Ordinance, 1869*;" and the societies, parties to the arbitration, may delegate to the person or persons to whom the reference is made, power to settle any terms or to determine any matter capable of

being lawfully settled or determined by the societies themselves, or by the directors or other managing body of such societies.

11. Any summons, notice, order, or other document required to be served upon any such society, may be served on the president, vice-president, or secretary, or by leaving the same, and sending a copy thereof through the post in a pre-paid letter, addressed to the society at their registered office. Notices, &c.,
how served.

12. Any document to be served by post on any such society, shall be posted in such time as to admit of its being delivered, in due course of delivery, within the period, if any, prescribed for the service thereof; and in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was sent as a pre-paid letter into the post office. Documents
how to be
served by post
on Society.

13. The term "real property," shall include chattels real as well as real estate. Interpreta-
tion.

14. The "*Investment and Loan Societies Ordinance, 1869*," and this Act shall be construed and read together as one Act, and be cited as the "*Investment and Loan Societies Act, 1869-1871*." Short title.

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No. 167.

A. D. 1871. An Act to make provision for enquiring into Controverted Elections and Disputed Returns of Members to serve in the Legislature.

[30th March, 1871.]

Preamble.

WHEREAS it is expedient to make provision for enquiring into controverted elections and disputed returns of members to serve in the Legislature :

Be it enacted by the Governor, with the advice and consent of the Legislative Council, as follows :—

* * * * *

Indemnity to
witnesses.

31. No person who is called as a witness before any judge on the trial of an election petition under this Act, shall be excused from answering any question relating to any corrupt practice at or connected with any election forming the subject of such enquiry by such judge, on the ground that the answer thereto may criminate or tend to criminate himself: Provided always, that where any witness shall answer every question relating to the matters aforesaid, which he shall be required by such judge to answer, and the answer to which may criminate or tend to criminate him, he shall be entitled to receive from the judge a certificate under the hand of such judge, stating that such witness was, upon his examination, required by the said judge to answer questions or a question relating to the matters aforesaid, the answers or answer to which criminated or tended to criminate him, and had answered all such questions or such question; and if any information, indictment, or action, be at any time thereafter pending in any court against such witness, for any offence under "*The Corrupt Practices Prevention Act, 1871*," or any other law in force in this Colony, or for which he might have been prosecuted under the said Act, or under any other law as aforesaid, committed by him previously to the time of his giving his evidence, and at or in relation to the election concerning or in relation to which the witness may have been so examined, the court shall, on production and proof of such certificate, stay the proceedings in such last mentioned information, indictment, or action, and may at its

discretion award to such witness such costs as he may have been put to in such information, indictment, or action : Provided, that no statement made by any person in answer to any question put by such judge shall, except in cases of indictments for perjury, be admissible in evidence in any proceeding, civil or criminal.

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No. 168.

A. D. 1871. An Act to exempt (in certain cases) Cattle farmed on shares, and their increase, from the operation of any Bankruptcy or Insolvency Laws.

[30th March, 1871.]

Preamble.

WHEREAS it is expedient that encouragement should be given to the keeping and raising of cattle in British Columbia: Be it enacted by the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, as follows:—

Agreement to
farm cattle to
be registered.

After notice,
cattle to be
deemed to be
in possession
of owner.

1. In all cases where any person shall entrust another with cattle to be kept and farmed on shares by such other, and where the agreement between the said parties, or a true copy thereof, together with an affidavit by the parties to the agreement, of the residence and also of the occupation (if any) of the parties to the agreement, and of the *bonâ fide* nature thereof, and of the number of each description of animal so to be entrusted, and of the brand or other distinctive mark on each of the animals for the time being so entrusted, and also of what the owner's brand or mark consists, is registered by being left in the office of the Registrar General of titles in Victoria, if the cattle referred to in the agreement is to be kept and farmed in Vancouver Island, or if the cattle referred to in the agreement is to be kept and farmed in any other part of British Columbia, then by being left in the office of the stipendiary magistrate of the district in which the land on which the said cattle are intended to be farmed and kept is situated, or in the office of some other person appointed in that behalf, within thirty days after the delivery of the cattle to the farmer, or within thirty days after the signing of the said agreement by either of the parties thereto, whichever shall first happen. And where notice of the agreement shall within the thirty days aforesaid be given in manner hereinafter provided, the cattle and all substituted cattle, and the share or interest of the owner of the cattle and substituted cattle, in the increase thereof respectively, shall be deemed to be in possession of such owner, and shall not be affected by any law now or hereafter to be in force in British Columbia relating to bankruptcy or insolvency, in consequence of the farmer or other person in whose actual possession the same may be, being

the reputed owner thereof: Provided, that no substituted cattle shall be protected from the operation of any such law, unless such cattle shall have been branded or marked before the time at which any such law would otherwise affect the same.

2. Substituted cattle shall not be deemed to have been branded or marked, until branded or marked with the brand or mark mentioned in the affidavit to be registered as aforesaid, as being the brand or mark of the owner of the cattle described in the affidavit.

Substituted cattle to be branded as described in affidavit.

3. The affidavit aforesaid may be in the form marked A in the schedule hereto, and may be taken by and be made before the Registrar General or stipendiary magistrate, or other person as aforesaid, or by and before any judge, justice of the peace, registrar, deputy registrar, or clerk of a court having a seal, or by and before any notary public practising within the Colony; * * *

Form of affidavit to accompany agreement.

4. Every notice required by this Act shall, before the expiration of the time prescribed for the giving of such notice, be advertised for one week at least in one or more of the daily or other newspapers published in Vancouver Island or other part of the Colony, as aforesaid; and the notice shall be headed "Cattle farmed on shares," and may be in the form B in the schedule hereto; but there shall be set forth therein the date of the agreement, the names and places of abode of the parties thereto, and also the name of the farmer, and the number of each description of cattle to be farmed.

Notice to be advertised.

5. A list of all such agreements as are in force shall be published in the *Government Gazette* during the month of January in each year, by the Registrar General.

Registrar General to publish list of agreements in *Government Gazette*.

6. In cases where by any agreement or a copy whereof is registered under this Act, a certain number of cattle is agreed to be entrusted as aforesaid, and such cattle shall not have been entrusted to the farmer at the time of the registering of the agreement, or copy thereof, and described in the affidavit registered therewith, the cattle aforesaid, which shall at any time or times thereafter be entrusted in pursuance of the agreement, and shall be described by the parties thereto in an affidavit registered in the office aforesaid, shall not be affected by any law aforesaid relative to bankruptcy or insolvency, in consequence of the farmer or other person, in whose actual possession the same may be, being the reputed owner thereof, if the affidavit (which may be in the form C in the schedule hereto) is registered in the office aforesaid, within thirty days after the entrusting of any of the cattle which shall have been subsequently en-

Provision as to cattle not handed over at time of registration.

trusted, and the number of each description of cattle intended to be thereby protected, and the date of the entrusting of the same respectively, and also the brand or other distinctive mark on each animal is set forth in the affidavit.

Registrar General to enter particulars of agreement in Register.

7. The said Registrar General and every stipendiary magistrate and other person as aforesaid, immediately on receiving any such agreement, or copy thereof, and affidavit for registration, shall enter particulars thereof in a register to be kept by him for that purpose, and such entry shall be made in form B in the schedule hereto.

Form.

Agreement and copy to be kept with Magistrate, and a copy to be sent to Registrar General.

8. When such agreement, or copy thereof, with affidavit as aforesaid, is left in the office of the stipendiary magistrate, or other person as aforesaid, the agreement shall not be deemed to have been registered until a copy of the documents intended to be registered shall also have been left in the same office, and such copy shall, when received, be forwarded by the first opportunity, free of charge, by the magistrate, or other person as aforesaid, to the Registrar General, to be deposited in his office.

Fees for registration.

9. The said Registrar General, and every stipendiary magistrate, and other person as aforesaid, shall be entitled to receive for registering every agreement, or a copy thereof, and affidavit as aforesaid (including the taking of any affidavit), the sum of two dollars, and no more; and any person shall be entitled to search the register on payment of the sum of twenty-five cents for each search.

Search.

Index books to be kept, showing names of persons holding cattle under agreements.

10. The Registrar General and stipendiary magistrate and other person appointed as aforesaid, shall keep an index book showing, in alphabetical order, the names of all farmers holding cattle under agreements registered in his office, and the Registrar General shall also keep an index book in manner aforesaid, of all duplicates of agreements or copies as aforesaid, transmitted to him as hereinbefore provided.

Provision as to cancellation of agreement.

11. Any agreement may be cancelled on application of the parties thereto, or on an order to be obtained for that purpose from a judge of the Supreme or County Court, who is hereby authorized to make such order, in such manner and on such terms as he shall think fit.

The production of an office copy of such order shall be sufficient authority for the proper officer to enter a memorandum of cancellation on any agreement, or copy thereof, as aforesaid.

Fee.

Every such order shall be filed by the officer aforesaid, and a fee of fifty cents charged therefor.

12. In the construction of this Act the word "cattle" shall extend to and include horses, mares, fillies, foals, geldings, colts, bulls, bullocks, cows, heifers, steers, calves, sheep, pigs, mules and asses. Interpretation clause.

The word "farmer" shall mean and include any person to whom cattle shall be entrusted to be kept and farmed on shares.

The words "substituted cattle" shall mean and include any cattle substituted for any of the cattle which shall have been entrusted to a farmer for the purposes aforesaid.

The word "increase" shall mean and include the issue of "cattle" and of "substituted cattle," or of either.

13. This Act may be cited as the "*Cattle Exemption Act*, Short title. 1871."

SCHEDULE.

FORM A.

I, _____, of _____, make oath and say, as follows:—

1. The agreement [*or a copy whereof is*] hereto annexed, and marked A, was signed by us *A. B.* on the _____ day of _____, 18____, and *C. D.*, on the _____ day of _____, 18____; and I, the said *A. B.*, then resided at _____, and was* _____, and the said *C. D.*, then resided at _____, and was† _____ as I

2. The cattle to be farmed by _____, of _____, on the terms in the agreement mentioned are _____ cows, _____ bulls, and _____; of this cattle _____ cows only had up to and inclusive of the _____ day of _____, been entrusted to the said _____.

3. And we, the said _____, further make oath and say that the cattle aforesaid was, at the date of the execution of the said agreement, the absolute property of me the said _____, and was and is *bonâ fide* intended to be farmed according to the true meaning of the said agreement.

4. The animals which have been so entrusted, are respectively branded or marked as follows:—[*set forth the brand or descriptive mark on each animal.*]

The brand of _____ the said _____ is _____ and (his) mark is _____

* If not in any business or employment, state so.

† City, district or island, or otherwise, as the case may be.

FORM B.

Cattle Farmed on Shares.

NOTICE OF AGREEMENT.

PARTIES				CATTLE.	FARMER.
Name.	Residence.	Occupation.	Date.	No. of each description.	Name of.

(Signed) *A.B.*
C.D.

FORM C.

I, _____, of _____, make oath and say, as follows:—

1. The cattle entrusted to the keeping of *C.D.*, on the _____ day of _____, 18____, and on the _____ day of _____ 18____, to be farmed by him on the terms of the agreement (dated the _____ day of _____, and made between *A.B.* and *C.D.*), registered in the office of _____ on the _____ day of _____, are _____ cows, _____ bulls, and _____ sheep.

2. The animals which have been so entrusted are respectively branded or marked as follows:—[*set forth the brand or descriptive mark on each animal.*]

3. The brand of _____ the said *A.B.*, is _____ and (his) mark is _____

Sworn before me, this _____ day of _____ 18____.

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ACTS
OF
PRINCE EDWARD ISLAND.

REVISED STATUTES.

20 GEO. III (3RD SESSION) CHAP. 3.

An Act for the due observance of the Lord's Day.

WHEREAS the due observance of the Lord's Day in this Island has been hitherto much neglected, and many abuses of the same have been committed, to the manifest prejudice and dishonor of religion, and the shameful violation of public decorum and good order:

1. Be it therefore enacted, by the Governor, Council, and Assembly, in order that all persons may be restrained from such indecent and irregular conduct in future, and may be prompted to apply themselves to the rational duties of religion and true piety, both publicly and privately, no tradesman, storekeeper, or any other person or persons whatsoever, shall hereafter open, or cause or suffer to be opened, his, her, or their shop or storehouse, or, either by himself or herself, or by his or her servant or servants, child or children, sell, expose, or offer to sale, upon any bulk, stall or shed, or send or carry out any manner of goods or merchandise on the Lord's Day, or any part thereof; Provided nevertheless, that this Act shall not extend to prohibit any persons from selling or exposing to sale milk and fresh fish, before the hour of nine o'clock in the morning, and after five of the clock in the afternoon of the said day.

No person shall open shop, &c., nor sell or send out any goods on the Lord's Day.

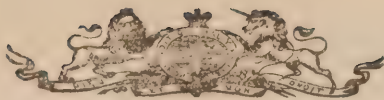
Milk and fresh fish may be sold before 9 a.m. and after 5 p.m.

2. And be it further enacted by the authority aforesaid, That no truckman, driver of carts, labourer, or other person whatsoever, shall hereafter do or perform any labour, work or business appertaining to his or their respective ordinary callings or professions, or other worldly labour, or suffer the same to be done by his, her, or their child or children, servant or servants, either by land or by water (works of necessity and charity only excepted) or practise, or suffer

No labor or business to be performed.

Nor any sport to be practised, any sport, fowling, fishing, game, play or
 or pastime pastime whatsoever, in any of the county towns, or other
 practised. parts or places wheresoever within this Island, on the Lord's
 Day or any part thereof, upon pain, that every person so
 offending, upon conviction thereof by the oath of one credible
 witness, before any of His Majesty's justices of the peace in
 this Island or upon view of such justice, shall, for every such
 offence, forfeit and pay the sum of ten shillings; the same
 Penalty of ten shillings for each offence. to be levied, in case of non-payment, by warrant of distress
 and sale made of the offender's goods—all fines and penalties
 incurred by this Act to be applied to the use of the poor, and
 How to be recovered and applied. disposed of at the discretion of the justice or justices before
 whom the offenders shall or may be convicted; the said
 Justices to keep a record of fines. justice or justices to keep a record of the fines levied and
 disposed of by them.

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 Excellent Majesty.



59 GEO. III, CHAP. 2.

An Act to prevent Acts of the General Assembly from taking effect from a time prior to the passing thereof.

WHEREAS every Act of the General Assembly, in which the commencement thereof is not directed to be from a specific time, doth commence from the first day of the session of the General Assembly in which such Act is passed; and whereas the same is liable to produce great and manifest injustice, for remedy whereof: Be it enacted by the Lieutenant Governor, Council and Assembly, That the Clerk of the Council shall endorse in English, on every Act of the General Assembly which shall pass after the third day of November, one thousand eight hundred and eighteen, immediately after the title of such Act, the day, month and year when the same shall have passed, and shall have received the Governor, Lieutenant Governor or Commander-in-Chief's assent; and such endorsement shall be taken to be a part of such Act, and to be the date of its commencement, where no other commencement shall be therein provided.

Clerk of Council to endorse on every Act the day, month and year when the same shall receive the Governor's assent, which shall be the date of its commencement.

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5 WM. IV, CHAP. 10.

An Act for establishing a Court of Divorce in this Island, and for repealing a certain Act therein mentioned.

All suits covering marriage and divorce to be determined by Lt. Governor and Council, who are constituted a Court for that purpose.

Proviso.

Nothing in this Act to control the rights of any other Court and no sentence of Court of Lt. Governor and Council to affect the right of action of any person.

WHEREAS it is necessary, in order to the keeping up of a decent and regular society, that the matrimonial union be protected, and that a court be constituted for cases of divorce and alimony: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, That, from and after the publication hereof, all causes, suits, controversies, matters and questions touching and concerning marriage, and contracts of marriage, and divorce, as well from the bond of matrimony, as divorce and separation from bed and board, and alimony, shall and may be heard and determined by and before the Lieutenant Governor or other Administrator of the Government, and His Majesty's Council; and that the Lieutenant Governor, or other Administrator of the Government, and Council aforesaid, or any five or more of the said Council, together with the Lieutenant Governor, or other Administrator of the Government, as President, be and they are hereby constituted, appointed and established a court of judicature in the matters and premises aforesaid, with full authority, power and jurisdiction in the same: Provided, and it is hereby declared, that nothing herein contained shall deprive, diminish, control, obstruct or abridge, or be construed, deemed or extended to deprive, diminish, control, obstruct or abridge, in any manner, the rights, powers, authority, judicature or jurisdiction of the Court of Chancery, or of the Supreme Court of Judicature, or of any inferior court of this Island, in and touching the matters and premises aforesaid, or of any of them; and that no sentence, decree, judgment or proceeding of the said Court of Lieutenant Governor, or other Administrator of the Government, and Council, in any information, prosecution, suit or process, touching and concerning any marriage, or contract of marriage, or divorce, or alimony, shall take away, annul, bar, suspend, or in any wise alter or affect the right of action of any person or persons for any injury or damage sustained for or by reason of any breach of any covenant or contract of marriage.

Times of holding Court of Lt. Governor and Council.

2. And be it further enacted, That the said Court of the Lieutenant Governor, or other Administrator of the Government, and Council, for the purposes and causes herein men-

tioned, shall commence and be held on the second Monday in May, in each and every year, with power to adjourn from time to time.

3. And whereas the arduous affairs of Government may render it impossible for the Lieutenant Governor, or other Administrator of the Government, at all times to preside in person in the said court: Be it therefore enacted, that it shall and may be lawful for the Lieutenant Governor, or other Administrator of the Government, by warrant or commission, under his hand and seal of this Island, to depute, constitute and appoint the chief justice of the Supreme Court of Judicature to preside in his place and stead in the said Court of the Lieutenant Governor, or other Administrator of the Government, and Council, and to have, hold and exercise all the powers, privileges, authority and jurisdiction as are hereby given and granted to the Lieutenant Governor, or other Administrator of the Government, in the same court, in all causes, matters and things therein cognizable by this Act.

Lt. Governor may appoint Chief Justice to preside in his stead.

4. And be it further enacted, That the causes of divorce from the bond of matrimony, and of dissolving and annulling marriage, are and shall be frigidity or impotency, adultery, and consanguinity within the degrees prohibited in and by an Act of Parliament made in the thirty-second year of the reign of King Henry the Eighth, intituled "*An Act for marriages to stand, notwithstanding pre-contracts,*" and no other causes whatsoever.

Causes of divorce.

5. Provided always, and be it further enacted, That in case of a sentence of divorce from the bond of matrimony as aforesaid, the issue of such marriage shall not in any case be bastardized, or in any way prejudiced or affected with any disability thereby: Provided also, that the wife in such case shall not be thereby barred of her dower, or the husband be deprived of any tenancy by the courtesy of England, unless it shall be so expressly adjudged and determined in and by such sentence of divorce.

Proviso.

In case of divorce, the issue not to be bastardized, nor the wife barred of dower, nor husband deprived of tenancy, unless by sentence.

6. And be it further enacted, That an Act of the General Assembly of this Island, made and passed in the third year of the reign of His present Majesty, intituled "*An Act for establishing a Court of Divorce, and for preventing and punishing incest, adultery and fornication,*" and every matter, clause and thing therein contained, shall be, and the same is hereby repealed.

Repeals 3 W. 4, c. 22, for establishing Court of Divorce.

Suspending
clause.

7. Provided always, That nothing in this Act contained shall have any force or effect until His Majesty's pleasure therein shall be known.

* * This Act received the Royal allowance on the 28th April, 1836, and the notification thereof was published in the *Royal Gazette* newspaper of this Island on the 7th June, 1836.

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7 WM. IV, CHAP. 29.

An Act for vesting all estates and property in this Island belonging to, or occupied for the Ordnance Service, in the principal officers of His Majesty's Ordnance, and for granting certain powers to the said principal officers.

Altered by
19 Vic. cap.
19.

See note at
foot.

WHEREAS divers lands, tenements, estates and other hereditaments in this Island, have been reserved in many of the grants of land from the Government of this Island, and otherwise set apart for the use of the Department of His Majesty's Ordnance, and have been placed under the charge of the said Department, or of the Administrator of the Government, or Commander of His Majesty's forces, in the said Island; and whereas it may be expedient that such parts of the said lands, tenements, estates and hereditaments, with the messuages thereunto belonging, as may not be wanted for the service of the said Department, should from time to time be sold and disposed of; and whereas for effectuating such sales it is necessary that all and every the said messuages, lands, tenements, estates and other hereditaments so reserved or set apart for the service of the said Ordnance Department, and any other messuages, lands, tenements, estates and other hereditaments that may be hereafter purchased for the service of the said Department, should be vested in the principal officers of His Majesty's Ordnance for the time being: Be it therefore enacted by the Lieutenant Governor, Council and Assembly, That immediately from and after the passing of this Act, all messuages, lands, tenements, estates and other hereditaments which have been heretofore reserved or set apart for His Majesty, or his royal predecessors, and his or their heirs and successors, for the use or service of the said Ordnance Department, and all erections and buildings which now are or which shall or may be hereafter erected and built thereon, together with the rights, members, easements and appurtenances to the same respectively belonging, shall be and become, and remain and continue vested in the principal officers of His Majesty's Ordnance in Great Britain for the time being, and their successors in the said office, according to the respective nature and quality of the said messuages, lands, tenements, estates and other hereditaments, and the several estates and interests of and in the same heredita-

Lands reserved or set apart for the service of the Ordnance, and all buildings thereon, vested in the principal officers of that department.

ments respectively, in trust for His Majesty, His heirs and successors, for the service of the said Ordnance Department or for such other public service or services as the said principal officers, or their successors in the said office, shall from time to time order and direct.

Lands to be hereafter purchased and also the buildings thereon shall be vested in like manner.

2. And be it further enacted, That from and after the purchase and conveyance, grant or demise thereof, all other messuages, lands, tenements, estates and other hereditaments, which shall at any time or times hereafter be purchased by the principal officers of His Majesty's Ordnance for the time being, or by any other person or persons by their order for the service of the said Ordnance Department, and all erections and buildings which shall then or which may thereafter be erected and built thereon, with the rights, members, easements and appurtenances to the same respectively belonging, by whatever mode of conveyance, either unto or in the name of His Majesty, His heirs and successors, or otherwise the same shall be purchased or taken, shall in like manner be and become, and remain and continue vested in the said principal officers of His Majesty's Ordnance for the time being, and their successors in the said office, according to the nature and quality of the said messuages, lands, tenements, estates and other hereditaments, and the several and respective estates and interests of and in the same respectively, in trust as aforesaid.

In case of death or removal of principal officers, such premises shall vest in their successors.

3. And be it further enacted, That upon the death, resignation or removal of the present principal officers of the Ordnance in Great Britain, or of any of them, or of any future principal officers, or principal officer in Great Britain, all such messuages, lands, tenements, estates and other hereditaments respectively, shall become vested in and be held by the succeeding principal officers in Great Britain, according to the respective nature and quality of the said messuages, lands, tenements, estates and other hereditaments, and the several estates and interests of and in the same respectively, in trust as aforesaid.

Lands may be sold, exchanged or let.

4. And be it further enacted, That it shall and may be lawful for the said principal officers for the time being, or any two or more of them, to sell, exchange, or in any manner dispose of, or to let or demise as well any of the messuages, lands, tenements, estates and other hereditaments respectively, which shall be vested in them under and by virtue of this present Act, with their respective appurtenances, either by public auction or private contract, in due form of law, to convey, surrender, assign or make over, or to grant or demise the same respectively (as the case may require) to any person or persons who shall be willing to purchase or take the same in exchange or otherwise respectively; and also to do any other act, matter or thing in

relation to any such messuages, lands, tenements, estates and other hereditaments, which shall by the said principal officers be deemed beneficial to the public service in relation thereto, or for the better management thereof, which might be done by any person having a like interest in any such like messuages, lands, tenements, estates or other hereditaments.

5. And be it further enacted. That the moneys to arise and be produced by the sale or exchange of any of the said messuages, lands, tenements, estates or other hereditaments which shall be so sold or exchanged under the provisions of this present Act, shall be paid by the respective purchaser or purchasers thereof, or the person or persons making such exchange, unto the respective or other chief officers or officer of the Ordinance in this Island for the time being, or to such other person or persons as the said principal officers for the time being, or any two or more of them, shall direct or appoint to receive the same, for the use of His Majesty, His heirs and successors, and that the receipt of the said principal officers or any two of them, or of the said respective or other chief officers or officer, for such moneys—such receipt to be endorsed on every such conveyance, surrender or assignment as aforesaid—shall effectually discharge the purchaser or purchasers, or person or persons by whom, or on whose account, the same shall be paid.

Purchase moneys shall be paid to the person appointed to receive the same by the principal officers of Ordinance.

6. And be it further enacted, That immediately from and after the payment of such purchase money, and the execution of every such conveyance, surrender and assignment as aforesaid, the purchaser or purchasers therein named, or the person or persons making such exchange as aforesaid, shall be deemed and adjudged to stand seized and possessed of the messuages, lands, tenements, estates, and other hereditaments, which shall be so purchased or taken in exchange by, and conveyed, surrendered, assigned or made over to him, her or them respectively, freed and absolutely discharged of and from all and all manner of prior estates, leases, rights, titles, interests, charges, incumbrances, claims and demands whatsoever, which can or may be had, made, set up, in, to, out of or upon or in respect of the same messuages, lands, tenements, estates or other hereditaments, by any person or persons whomsoever, on any account whatever (save and except such estates, leases, rights, titles, interests, charges, incumbrances, claims and demands, as in any such conveyance, surrender, deed of exchange or assignment shall be excepted.)

After payment of purchase money, &c., the purchaser to have full right and possession.

7. And be it further enacted, That it shall be lawful for the said principal officers for the time being, and for the said respective or other chief officers or officer for the time being, and they are respectively hereby authorized and empowered

Actions of ejectment may be brought in the name of His Majesty to recover pos-

session of
lands vested
in the Ord-
nance depart-
ment.

to bring, prosecute and maintain, in the name of His Majesty, His heirs or successors, any action or actions of ejectment or other proceeding at law or in equity, in the Supreme Court of Judicature or Court of Chancery of this Island (as the case may require) for recovering possession of any messuages, lands, tenements, estates or other hereditaments, by this Act vested in them as aforesaid; and to distrain or sue for any arrears of rent which shall have become or shall become due for or in respect thereof, under any parol or other demise from the said principal officers, or respective or other chief officers or officer for the time being, as aforesaid; and also to bring, prosecute and maintain, in the name of His Majesty, His heirs or successors, any other action or suit in respect of or in relation to the said messuages, lands, tenements, estates or other hereditaments, or of any trespass or encroachment committed thereon, or damage or injury done thereto.

* * * * *

Description of
principal
officers of
Ordinance in
this Island in
all contracts,
conveyances,
&c.

14. And be it further enacted, That in all contracts, conveyances, surrenders, leases and other deeds and instruments whatsoever, relating to the public service, which shall hereafter be made or entered into by, to or with the principal officers of the Ordinance for the time being, or by, to or with, the respective or other chief officers or officer of the Ordinance, for the time being, in this Island, or whereunto they or any of them shall be parties or a party, it shall be sufficient to call or describe the said principal or other officers or officer as aforesaid, by the style or title of "The officers or chief acting officer (*as the case may be*) of His Majesty's Ordinance," without naming them, or any or either of them, and that all such contracts, conveyances, surrenders, leases and other deeds and instruments wherein the said principal officers or the said respective or other chief officers or officer as aforesaid shall be called or described by their style or title as aforesaid, and the execution thereof respectively, by the said principal officers, or any two or more of them, or by the said respective or other chief officer as aforesaid, and (*? shall*) be as valid and effectual and have the like force and operation, to all intents and purposes whatsoever, as if the said principal officers, or any two or more of them, or the said respective or other chief officers or officer as aforesaid, had been respectively named therein.

* * * All the powers and estates by this Act vested in the principal officers of the Ordinance are by the Act. 19 Vic., c. 19, transferred to and vested in Her Majesty's Principal Secretary of State for the War Department.



6 VIC., CHAP. 14.

An Act relating to the fisheries, and for the prevention of illicit trade in Prince Edward Island, and the coasts and harbors thereof.

For Acts for prevention of illicit trade, &c., see 3 Vic., c. 15, and 10 Vic., c. 8.

WHEREAS by the Convention made between His late Majesty King George the Third, and the United States of America, signed at London, on the twentieth day of October, in the year of our Lord one thousand eight hundred and eighteen, and the Statute made and passed in the Parliament of Great Britain, in the fifty-ninth year of the reign of His late Majesty King George the Third, all foreign ships, vessels or boats, or any ship, vessel or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, found fishing, or to have been fishing, or preparing to fish, within certain distances of any coasts, bays, creeks or harbors whatever, in any part of His Majesty's dominions in America, not included within the limits specified in the first article of the said Convention, are liable to seizure; and whereas the United States did, by the said Convention, renounce for ever any liberty enjoyed or claimed by the inhabitants thereof to take, dry or cure fish on or within three marine miles of any of the coasts, bays, creeks or harbors of His Britannic Majesty's dominions in America, not included within the above mentioned limits, provided however, that the American fishermen should be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purposes whatever, but under such restrictions as might be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges thereby reserved to them; and whereas no rules or regulations have been made for such purpose, and the interests of the inhabitants of this Island are materially impaired; and whereas the said Act does not designate the persons who are to make such seizure as aforesaid, and it frequently happens, that persons found within the distances of the coasts aforesaid, infringing the articles of the Convention aforesaid, and the enactments of the Statute aforesaid, on being taken possession of profess to have come within said limits for the purpose of shelter, and repairing damages therein, or to purchase

Officers of Customs, &c., authorized to board vessels, &c., within 3 marine miles of this Island.

Powers of such officers, &c.

Prohibited goods on board such vessel to be forfeited, and vessels, &c., if foreign, found fishing within limits to be forfeited.

Further powers of officers of Customs, &c.

Penalty on persons molesting or obstructing officers, &c.

wood and obtain water, by which the law is evaded, and the vessels and cargoes escape confiscation, although the cargoes may be evidently intended to be smuggled into this Island, and the fishery carried on, contrary to the said Convention and Statute: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, it shall be lawful for the officers of Her Majesty's Customs, the officers of impost and excise, the sheriffs and magistrates throughout this Island, and any person holding a commission for that purpose from His Excellency the Lieutenant Governor, for the time being, to go on board any ship, vessel or boat, within any port, bay, creek or harbor in this Island, and also to go on board any ship, vessel or boat hovering within three marine miles of any of the coasts, bays, creeks or harbors thereof, and in either case freely to stay on board such ship, vessel or boat, as long as she shall remain within such port or distance, and if any such ship, vessel or boat be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for any of the above enumerated officers or persons to bring such ship, vessel or boat into port, and to search and examine her cargo, and to examine the master upon oath touching the cargo and voyage; and if there be any goods on board prohibited to be imported into this Island, such ship, vessel or boat, and the cargo laden on board thereof, shall be forfeited; and if the said ship, vessel or boat shall be foreign, and not navigated according to the law of Great Britain and Ireland, and shall have been found fishing or preparing to fish, or to have been fishing, within such distance of such coasts, bays, creeks or harbors of this Island, such ship, vessel or boat, and their respective cargoes, shall be forfeited; and if the master or person in command thereof shall not truly answer the questions which shall be demanded of him in such examination, he shall forfeit the sum of one hundred pounds.

2. And be it further enacted, That all goods, ships, vessels and boats liable to forfeiture under this Act, shall and may be seized and secured by any such officer of Her Majesty's Customs, officer of impost and excise, sheriffs, magistrates or other person holding such commission as aforesaid, and every person who shall in any way oppose, molest or obstruct any officer of the Customs, officer of impost and excise, sheriff, magistrate or other person so commissioned and employed as aforesaid, in the exercise of his office, or shall in any way oppose, molest or obstruct any person acting in aid or assistance of such officer of Customs, officer of impost and excise, sheriff, magistrate or other person so commissioned and employed as aforesaid, shall, for every such offence, forfeit the sum of two hundred pounds.

3. And be it further enacted, That all goods, ships, vessel and boats, which shall be seized, as being liable to forfeiture under this Act, shall be taken forthwith and delivered into the custody of the collector of the Customs, at the Custom house next to the place where the same were seized, who shall secure and keep the same, in such manner as other vessels and goods seized are directed to be secured by the Commissioners of Her Majesty's Customs.

Goods, vessels, &c., seized to be delivered to nearest Collector of Customs, who shall secure same, &c.

4. And be it further enacted, That all goods, ships, vessels, boats or other things, which shall have been condemned, as forfeited under this Act, shall, under the direction of the principal officer of the Customs or Excise, where such seizure shall have been secured, be sold by public auction to the best bidder, and the produce of such sale to be applied as follows, that is to say:—The amount chargeable for the custody of said goods, ship, vessel, boat or any other thing so seized as aforesaid, shall be first deducted and paid, and the residue divided into two equal moieties, one of which shall be paid to the officer or other person or persons legally seizing the same, without deduction, and the other moiety to the Government, and paid into the treasury of this Island, all costs incurred having been first deducted therefrom: Provided always, that it shall be lawful for the Lieutenant Governor in Council to direct that any of such things shall be destroyed or reserved for the public service.

Goods, vessels, &c., condemned, to be sold at public auction.

Appropriation of proceeds of such sale.

Proviso.

5. And be it further enacted, That all penalties and forfeitures, which may be hereafter incurred under this Act, shall and may be prosecuted, sued for and recovered, in the Court of Vice-Admiralty, having jurisdiction in this Island.

Mode of recovery of penalties.

6. And be it further enacted, That if any goods, or any ship, vessel, or boat shall be seized, as forfeited under this Act, it shall be lawful for the judge or judges of any court having jurisdiction to try and determine such seizures, with the consent of the person seizing the same, to order the delivery thereof, on security, by bond, with two sufficient sureties, to be first approved by such seizing officer or person, to answer double the value of the same in case of condemnation, and such bond shall be taken to the use of Her Majesty, in the name of the collector of the Customs, in whose custody the goods, or ship, vessel or boat may be lodged, and such bond shall be delivered and kept in the custody of such collector; and in case the goods, or ship, vessel or boat shall be condemned, the value thereof shall be paid into the hands of such collector, who shall cancel such bond, and distribute the money paid in such manner as is above directed.

Judge of Court having jurisdiction in case of goods, vessels, &c., seized, may release the same on security being given therefor.

Bond to be taken for same.

Collectors to distribute amount of bond if goods, vessels, &c., be condemned.

7. And be it further enacted, That no suit shall be commenced for the recovery of any penalty or forfeiture under

Regulates the mode of prosecuting suits

for penalties
under this
Act.

this Act, except in the name of Her Majesty, and shall be prosecuted by Her Majesty's Advocate or Attorney General, or, in his absence, by the Solicitor General, for this Island; and if any question shall arise, whether any person is an officer of the Customs, Excise, sheriff, magistrate, or other person authorized to seize as aforesaid, *vivâ voce* evidence may be given of such fact, and it shall be deemed legal and sufficient evidence.

Onus of proof
of illegality of
seizure to be
on claimant.

8. And be it further enacted, That if any goods, ship, vessel or boat shall be seized for any cause or forfeiture under this Act, and any dispute shall arise whether the same have been lawfully seized, the proof touching the illegality thereof shall be on the owner or claimant of such goods, ship, vessel, or boat, and not on the officer or person who shall seize and stop the same.

No claim to
anything
seized under
this Act to be
admitted un-
til certain re-
quisites be
complied
with.

9. And be it further enacted, That no claim to any thing seized under this Act and returned into Her Majesty's Court of Vice-Admiralty for adjudication, shall be admitted, unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner, or by his attorney or agent, by whom such claim shall be entered, to the best of his knowledge and belief, and every person making a false oath thereto shall be deemed guilty of a misdemeanor, and shall be liable to the pains and penalties to which persons are liable for a misdemeanor.

No claim to be
admitted un-
til security be
given.

10. And be it further enacted, That no person shall be admitted to enter a claim to any thing seized in pursuance of this Act, and prosecuted in this Island, until sufficient security shall have been given, in the court where such seizure is prosecuted, in a penalty not exceeding sixty pounds, to answer and pay the costs occasioned by such claim, and in default of giving such security, such things shall be adjudged to be forfeited, and shall be condemned.

Amount of
security and
condition
thereof.

Defines mode
of proceeding
against any
officer of Cus-
toms, Excise,
Magistrate,
&c., for any
thing done
under this
Act.

11. And be it further enacted, That no writ shall be sued out against, nor a copy of any process served upon any officer of the Customs, Excise, sheriff, magistrate, or other person authorized to seize as aforesaid, for any thing done in the exercise of his office, until one calendar month after notice, in writing, shall have been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained, the cause of action, and the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent, and no evidence of the cause of such action shall be produced, except of such as shall be contained in such notice, and no verdict shall be given for the

plaintiff, unless he shall prove on the trial that such notice was given, and, in default of such proof, the defendant shall receive in such action a verdict and costs, or judgment of nonsuit shall be awarded against the plaintiff, as the court shall direct.

12. And be it further enacted, That every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in Her Majesty's Supreme Court of Judicature for this Island, and the defendant may plead the general issue, and give the special matter in evidence; and if the plaintiff shall become nonsuited, or shall discontinue the action, or if upon a verdict or demurrer, judgment shall be given against the plaintiff, the defendant shall receive treble costs, and have such remedy for the same as any defendant can have, in other cases where costs are given by law.

Limits time for bringing any action against any officer of Customs, &c., for any thing done under this Act.

Mode of proceeding in such actions.

13. And be it further enacted, That in case any information or suit shall be brought to trial, on account of any seizure made under this Act, and a verdict shall be found for the claimant thereof, and the judge or court before whom the cause shall have been tried, shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure, be liable to any action, indictment, or other suit or prosecution, on account of any such seizure; and if any such action, indictment or other suit or prosecution shall be brought to trial, against any person on account of such seizure, wherein a verdict shall be given against the defendant, the plaintiff, besides the thing seized or the value thereof, shall be entitled to no more than two pence damages, nor to any costs of suit, nor shall the defendant in such prosecution be fined more than one shilling.

If verdict be found for any claimant on certificate of Judge or Court, &c., no costs to be allowed to claimant, nor seizing officer liable to any action, &c.

14. And be it further enacted, That it shall be lawful for any such officer of the Customs, Excise, or sheriff, or magistrate, or other person authorized to seize as aforesaid, within one calendar month after such notice, to tender amends to the party complaining, or his agent, and to plead such tender in bar to any action, together with other pleas, and if the jury shall find the amends sufficient, they shall give a verdict for the defendant, and in such case, or in case the plaintiff shall become nonsuit, or shall discontinue his action, or judgment shall be given for the defendant upon demurrer, then such defendant shall be entitled to the like costs, as he would have been entitled to, in case he had pleaded the general issue only: Provided always, that it shall be lawful for such defendant, by leave of the court, where such action shall be brought, at any time before or after issue joined, to pay money into court as in other actions.

Seizing officer, &c., may tender amends within 1 month after notice of action, and plead such tender, &c.

Officer, &c., may pay money into Court.

If Judge or Court certifies probable cause of seizure, plaintiff only be entitled to 2d. damages and to no costs.

15. And be it further enacted, That in any such action, if the judge or court before whom such action shall be tried, shall certify upon the record, that the defendant or defendants in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than two pence damages, nor to any costs of suit.

All penalties or forfeitures under this Act may be recovered within three years after the offence committed or forfeiture incurred.

16. And be it further enacted, That all actions or suits for the recovery of any of the penalties or forfeitures imposed by this Act, may be commenced or prosecuted at any time within three years after the offence was committed by reason whereof such penalties or forfeitures shall be incurred, any law, usage, or custom to the contrary notwithstanding.

No appeal allowed from sentence of any Court under this Act, unless applied for within twelve months after.

17. And be it further enacted, That no appeal shall be prosecuted from any decree or sentence of any of Her Majesty's courts in this Island, touching any penalty or forfeiture imposed by this Act, unless the inhibition shall be applied for and decreed within twelve months from the time when such decree or sentence was pronounced.

Suspending clause.

18. And be it further enacted, That this Act shall not go into force or be of any effect until Her Majesty's assent shall be signified thereto, and an order made by Her Majesty in Council, that the clauses and provisions of this Act shall be the rules, regulations and restrictions respecting the fisheries on the coasts, bays, creeks or harbors of the Island of Prince Edward.

. This Act received the Royal allowance on the third day of September, one thousand eight hundred and forty-four and an order was on the same day made by Her Majesty in Council, declaring that its clauses and provisions should be the rules, regulations and restrictions respecting the fisheries on the coasts, bays, creeks or harbors of the Island of Prince Edward; and notification of said Royal assent, and of the said order, was published in the *Royal Gazette* newspaper of this Island, on the eighth day of October, one thousand eight hundred and forty-four.

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14 VIC., CHAP. 2.

An Act to consolidate and amend the Laws now in force
for the relief of Insolvent Debtors.

See 23 Vic.,
cap. 16, sec.
75 to 85, and
25 Vic., cap.
6, sec. 3.

WHEREAS it is deemed advisable to consolidate the laws now in force, for the relief of insolvent debtors: Be it enacted by the Lieutenant Governor, Council and Assembly, that an Act passed in the twenty-sixth year of the reign of His Majesty, King George the Third, intituled: "*An Act for the relief of Insolvent Debtors*;"—an Act made and passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled: "*An Act to suspend an Act made and passed in the twenty-sixth year of the reign of His late Majesty King George the Third, intituled: 'An Act for the relief of Insolvent Debtors, and to make other provisions in lieu thereof'*" ;—an Act made and passed in the seventh year of the reign of Her present Majesty, intituled: "*An Act to repeal certain Acts therein mentioned, and to consolidate and amend the laws for the relief of Insolvent Debtors*" ;—and an Act made and passed in the eleventh year of the reign of Her present Majesty, intituled: "*An Act to amend the laws for the relief of Insolvent Debtors*," be and the same are hereby respectively repealed.

Repeals
26 G. III., c.
2;
6 Wm. IV., c.
9;

7 Vic., c. 3;

And 11 Vic.,
c. 27.

2. And be it enacted, That from and after the passing of this Act, the justices of Her Majesty's Supreme Court of Judicature of this Island, or any two of them, of whom the chief justice shall be one, shall, and they are hereby empowered and required to commission and appoint four fit and competent persons as commissioners, two of whom shall be a quorum, in and for each of the counties of King's County and Prince County, in this Island, to carry into effect the purposes of this Act as hereinafter mentioned, and who shall reside within the respective counties for which they shall be appointed, and within twelve miles of the respective court houses in the said counties; and in all cases of the death or resignation of any such commissioner or commissioners so to be appointed, or his or their non-residence in, or removal from the respective county for which he or they were appointed, or in case of his or their six months' absence therefrom, or of malfeasance or maladministration in his or their respective duties, or his or their other incapacity in the discretion of the said justices, or of his or their neglect or refusal to accept office, the said

Mode of ap-
pointment of
Commission-
ers under Act.

When office shall be vacant; how other appointments are to be made.

office, with respect to such commissioner or commissioners, shall be deemed vacant, and it shall be deemed lawful to and for the said justices, and they are hereby directed, from time to time, and as often as any such vacancy or vacancies shall occur, to appoint other commissioner or commissioners in his or their stead, all which said commissioners so to be appointed by virtue of this Act, shall have and be vested with the same powers and authorities in every respect, within the counties in which they shall respectively reside, as are hereinafter by this Act given and conferred to and upon any two of the said justices of Her Majesty's Supreme Court of Judicature, as aforesaid.

Any prisoner for debt not able to support himself, may apply to two Judges in Supreme Court, &c., for a weekly support.

3. And be it enacted, That whenever any person may be confined within any gaol, or the limits thereof, within this Island, for any debt, damages or cost, whether on *mesne* or final process (*except such persons as may be so confined by virtue of any *mesne* or final process, issued under any Act or Acts made for the recovery of small debts) and such person, so confined, shall be unable to provide or obtain his or her necessary support, it shall and may be lawful for such person to make application to any two judges of the Supreme Court of this Island, or to the said court in term time, or to any commissioners, two of whom shall be a quorum, to be appointed as aforesaid, for a weekly support or maintenance, and such judges, court or commissioners (after fourteen days' previous notice to the plaintiff, or person at whose suit such person may be confined, his or her attorney) shall examine, on oath, such person so confined, as to his or her ability to support him or herself, and if, on examination, to be taken in writing on oath, as aforesaid, to be filed in the office of the clerk or prothonotary of the Supreme Court aforesaid, it shall appear to such judges, court, or commissioners, that such person is utterly unable to support him or herself, and has no property whatever, real or personal, of what nature or kind soever, except necessary bedding, wearing apparel, kitchen utensils, and necessary tools of his or her trade or occupation, not exceeding in value, in the whole, fifteen pounds, and that such confined person hath not at any time since he or she was served with the first or *mesne* process in the suit in which he or she may have been confined, or since he or she had notice of the said suit having been commenced, made over, assigned, transferred, or put out of his or her possession or power, either directly or indirectly, any property whatsoever, whether real or personal, for the purpose of defrauding such plaintiff, or giving any undue preference to any other plaintiff or creditor, that then it shall be lawful for such judges, court, or commissioners to make an order for the party at whose suit such person may be confined, to pay a

Judges, &c., may order detaining creditor to pay a weekly sum for his support.

* Exception repealed by 24 Vic., c. 16, sec. 75, which see; see also 25 Vic., c. 6, sec. 9.

weekly sum, to be applied for the support of such person, and the first payment to be made at the time such judges, court, or commissioners may in such order direct, and which sum shall be paid weekly thereafter on such day as such order shall direct; and from the first day of November until the last day of March, shall be five shillings per week, and the remainder of the year four shillings per week; and after such order made it shall be the duty of such party, without any further notice, to pay such weekly support agreeably to such order, such allowance to be paid to the gaoler of the county in which such debtor may be confined, at any time during the day, between sunrise and sunset, on which such allowance becomes due, for the use and support of such confined debtor; and in case of failure thereof, it shall and may be lawful for such judges, court, or commissioners, on such failure being made known to them, on affidavit of the debtor and the gaoler of the county in which such debtor may be confined, to make an order under their hands, directed to the sheriff or gaoler, or by rule of court, to discharge the said person out of confinement by reason of such suit: Provided, that nothing in this Act shall prevent any plaintiff from prosecuting his or her suit, if on *mesne* process, to final judgment, or from taking out *feri facias* or statute execution against the goods and chattels, lands and tenements of such defendant, or from recovering in any other manner the amount of the judgment obtained in the suit, so always that the person of any debtor so discharged shall be freed from arrest in any proceeding or action upon such judgment: Provided also, that when two or more creditors shall detain any debtor in prison, as aforesaid, the said weekly allowance shall be paid in the proportions following, that is to say:—when there are only two detaining creditors, then each shall pay half of the said allowance; and when there shall be three or more such creditors, then each shall pay an equal proportion of the weekly allowance ordered; and in case any such detaining creditor or creditors shall not make due payment of his, her or their proportion of such allowance, then the debtor, upon proof thereof made on oath before any judge, or other person having authority by this Act for such purpose, shall be discharged, on oath being made by the debtor and gaoler, as hereinbefore prescribed by this section, by order of such judge or other person, from further imprisonment, at the suit of such detaining creditor or creditors so making default in payment of the allowance as aforesaid; but such discharge shall not affect the right of any other detaining creditor or creditors to continue such debtor in prison, unless such other creditors shall, after eight days' notice, in writing, to each of them, or their authorized attorneys or agents, of such default having been proved, and order of discharge made thereon as aforesaid, neglect duly to pay their proportion of

In default of payment debtor to be discharged.

Weekly allowance, how to be paid when there are two or more detaining creditors.

Not to affect the right of other detaining creditors unless they neglect to pay, &c.

such allowance, or the whole thereof, as is required by this Act.

Application for relief must be by petition on oath.

4. And be it enacted, That the application of any person to the said justices, court or commissioners, for the relief or benefit afforded by this Act, shall be by petition, which, before any order is made thereon, shall be verified by the oath of the applicant, sworn before either of the said justices or commissioners, or any person legally authorized to take affidavits for the said Supreme Court.

On application Judges, &c., to make an order to Sheriff, &c., to bring debtor before them.

5. And be it enacted, That upon the application of any person to the said judges, court or commissioners, for such support, such judges, court or commissioners are hereby authorized and required to make an order, under their hands or by rule of court, directed to the sheriff or gaoler in whose custody such person may be confined, to bring up such person before them, at the time and place in such order or rule of court to be specified, for the purpose of being examined, as provided in the third section of this Act, and such sheriff or gaoler shall not be liable to any action for escape or other suit, for or on account of obeying such order or rule of court, according to the true intent and meaning of this Act.

Judges may suspend order for support in certain cases.

6. And be it enacted, That in any case where it shall be made to appear, to the satisfaction of the said judges, court or commissioners, that such person has the means of providing his or her necessary support, whether from property possessed at the time or since obtained, or by any other means, upon application made to them, such judges, court or commissioners shall be and they are hereby authorized and empowered, by order or rule, to suspend the payment of such support for a stated time, or until further order or rule is given in that behalf by the said judges, court or commissioners.

Debtor having limits, if able to earn his own support, not to be entitled to support from creditors.

7. And be it enacted, That if at any time it shall appear or be made out to the satisfaction of the said judges, court or commissioners, that the person so applying for, or having support under this Act, and having the benefit of the gaol limits, can, either by labor or otherwise, earn or procure his or her necessary support and maintenance within such limits, such judges, court or commissioners shall and may refuse to make such order for support, as aforesaid, or, in case the same be made, to suspend the same.

Debtor who may have received allowance for three months, entitled to discharge at the

8. And be it enacted, That any person confined either under *mesne* or final process as aforesaid, who may have received such weekly allowance for the space of three months, shall immediately thereafter be entitled to his or her discharge from confinement, at the suit of the party

who may have paid the same ; and in such case, the said judges, court or commissioners. are hereby authorized and required to discharge such person from custody, at the suit of the party who may have paid the support : Provided always, that in case of such discharge, the party shall be entitled to the same remedy, by proceeding to final judgment, or taking out execution, against goods, chattels, lands and tenements, as is provided in the third section of this Act.

suit of creditor.

9. And be it enacted, That when any plaintiff or defendant shall have occasion to compel the attendance of any witness or witnesses to testify or give evidence before the said judges, court or commissioners, to or before whom any application, examination, or other proceedings may be had under this Act, it shall and may be lawful for such plaintiff or defendant to issue a subpoena, or, if need be, a *subpoena duces tecum*, out of the said Supreme Court, commanding and requiring the attendance of such witness, and the production of books and papers before the said judges, court or commissioners, at the time and place in such subpoena to be specified, which said subpoena shall be served, and the witness paid or tendered his expenses in the same manner as if the said subpoena had issued from the said Supreme Court in the ordinary manner ; and the witness, or the person served therewith, shall be subject to the same punishment by such court, or liable to the like damages, in all respects, to the party injured, for wilfully refusing or neglecting to obey such subpoena, as in any other case he would be liable or subject to.

Judges, &c., may issue subpoenas to compel attendance of witnesses before them.

How served.

10. And be it enacted, That when any person so confined shall be possessed of money or debts at the time of his or her confinement, or afterwards, and shall have offered to pay or assign the same to the party at whose suit such person may be confined ; or in case there be several parties, to them respectively, in part payment, and in proportion to such demand or demands, or when such confined person shall be possessed of either real or personal property (excepting, nevertheless, wearing apparel, bedding and tools, to the value of fifteen pounds, as before excepted) and shall have offered to convey or assign the same to the party or parties at whose suit or suits such person may be confined, at a fair price to be agreed upon, in part payment, and in proportion as aforesaid ; and in case of disagreement as to the price or value of such property, shall have offered to pay, in manner aforesaid, the proceeds arising from the sale of such property, which said property shall be sold at public auction by such confined person, after having first advertised the time and place of the sale thereof for the space of fourteen days, and given the party or parties respectively, or their attorneys, notice of such sale ; and if

Debtor possessed of money, debts, or real or personal property, who shall have offered to pay or assign the same to the creditor, &c., and on creditor not taking same, such property shall be sold at public auction.

After refusal of assignment, &c., debtor may assign or pay over the same to any other *bona fide* creditor.

the said party or parties shall have refused to accept and receive the said payment or assignment, or the said proceeds arising from the sale of the said property as aforesaid, that then it shall and may be lawful for the said person so confined to assign or pay over the same to any other *bona fide* creditor or creditors.

Debtor in certain cases entitled to the benefit of this Act.

11. And be it enacted, That when such party or parties may have received such assignment or payment from such confined person as aforesaid, or when the confined person in case of refusal by such party or parties, may have assigned or paid the same to the other *bona fide* creditors as aforesaid, that then, and in either of such cases, the said confined person shall be entitled to the benefit of this Act, in all respects the same as if such person had no such debt or property at the time of confinement or application.

Detaining creditor may discharge debtor, without losing benefit of the judgment upon which execution issued.

12. And whereas, it is expedient that creditors should have the power to discharge debtors, without losing the benefit of judgments obtained against such debtors: Be it enacted, That it shall and may be lawful for any creditor or creditors, at whose suit any debtor or debtors is, or are, or shall be in prison, and taken or charged in execution for any sum of money, by writing, signed by such creditor or creditors, or by one of them, for or on behalf of himself or herself, and the others of them (being complainants in the same action,) or by his, her or their attorney, to signify or declare his, her, or their consent to the discharge of such debtor or debtors from the prison in which he, she or they is, are, or shall be confined in execution, at the suit of such creditor or creditors, without losing the benefit of the judgment upon which such execution issued, except as is hereinafter provided; and that notwithstanding the discharge of any debtor or debtors, in pursuance of such consent as aforesaid, the judgment upon which such debtor or debtors was or were taken or charged in execution, shall continue and remain in full force, to all intents and purposes, except as is hereinafter provided; and it shall be lawful for such creditor or creditors, at any time, to take out execution on any such judgment against the lands, tenements, hereditaments, goods and chattels of such debtor or debtors, or any of them (other than except the necessary apparel and bedding of him, her or them, or his, her or their families, and the necessary tools of his, her, or their trade or occupation, not exceeding the value of fifteen pounds in the whole,) or to bring any action or actions on every such judgment, or to bring any action, or to use any remedy for the recovery of his, her or their demands, against any other person or persons liable to satisfy the same in such and the same manner as such creditor or creditors could or might have had or done, in case such debtor or debtors had never been taken or charged in execution upon such judgment: Pro-

vided always, that no debtor or debtors who shall be discharged in pursuance of this Act, shall, at any time afterwards, be charged or taken in execution, or convicted upon any judgment hereinbefore declared to continue and remain in full force, or in any action which may be brought on any such judgment, and that no proceeding by *scire facias* action or otherwise, shall be had against any bail in the action on which such judgment was obtained.

13. And be it enacted, That the executors and administrators of any such creditor as aforesaid, shall and may consent to the discharge of any debtor or debtors to their testator or intestate, in such and the same manner, and with the same advantages and consequences, in all respects, as such creditors, if living, might or could have done in pursuance of this Act; and such executors and administrators respectively, shall not by reason of any such discharge, in pursuance of this Act, be deemed guilty of *devastavit*, or be chargeable with the debt due from the person or persons so discharged.

Executors,
&c., of creditor may consent to the discharge of debtor with the same advantages.

14. And be it enacted, That every sheriff, gaoler or keeper, in whose prison, gaol or custody any debtor or debtors is, are, or shall be confined or detained in execution, shall, and every of them is hereby required, within twenty-four hours next after such consent in writing of any creditor or creditors, his, her, or their attorney, or executors, or administrators, as is hereinbefore mentioned, shall have been produced to, and left with such sheriff, gaoler or keeper, or his deputy or agent, at such prison or gaol (the handwriting or mark of such creditor or creditors, his, her, or their executors or administrators, or the handwriting of his, her, or their attorney to such consent in writing, being duly proved by affidavit of some credible person to be thereunto annexed, and to be sworn before one of the judges or commissioners aforesaid, or before the said Supreme Court, or a commissioner duly authorized to take affidavits in the county where such debtor or debtors shall be confined), to discharge and set at liberty the debtor or debtors, to whose discharge such consent shall be signified or declared as aforesaid, if he, she or they are in custody only upon the execution issued at the suit of the creditor or creditors signifying such consent.

Sheriff, &c., to discharge debtor within 24 hours after consent in writing of creditor shall be produced.

15. And be it enacted, That in all cases where a writ of *feri facias* or statute execution shall be issued upon any judgment obtained, or to be obtained in the said Supreme Court, it shall not be lawful for the sheriff or other officer executing such writ, to seize or levy upon the necessary apparel and bedding of the debtor or debtors against whom such judgment shall be obtained, or of his, her, or their family or families, or the necessary tools of his, her, or their trade or occupation, in satisfaction of such judgment: Pro-

No writ of *feri facias* or statute execution to be levied on apparel or bedding of debtor, if the same shall not exceed £15 in value.

vided always, that such apparel, bedding and tools so to be exempted from being seized or levied upon as aforesaid, shall not exceed the value of fifteen pounds in the whole, to any one debtor, which value shall be ascertained by the oath of three disinterested freeholders or leaseholders in the county, to be appointed by such sheriff or other officer to appraise the same; which oath the said sheriff or other officer is hereby authorized and empowered to administer.

Any person confined in jail or limits for three months may apply to Supreme Court for relief or discharge.

16. And whereas it is expedient, in certain cases, to authorize and empower the Supreme Court of Judicature of this Island to grant relief to, or discharge confined debtors who, by the strict provisions of the foregoing sections of this Act, may not be entitled to the benefit thereof: Be it therefore enacted, That when any person shall have been confined in any gaol or limits thereof in this Island for the space of three months, at the suit of any person, for either debt, costs or damages, such confined person may apply to the said Supreme Court, in term, on affidavit of the circumstances, for relief or discharge; which said court, on notice having been given of such application to the adverse party, or his attorney, may enquire into the matter, on affidavit, or otherwise; and if it shall thereupon appear to said court, that the person so confined has no property whatever, real or personal, within his possession, power or control, wherewith he can satisfy such demand or any part thereof, or support himself in custody, such court may, in its discretion, make an order either for the maintenance or discharge of such person so confined, in the same manner as any judges of such court, or any of the commissioners aforesaid, may now do by virtue of this Act, and which order or discharge shall, in all respects, have the like force and effect, as any order or discharge made by any judges or commissioners pursuant to the foregoing directions of this Act.

* * * * *

Indemnifies all persons against any action, &c.

18. And be it enacted, That in case any confined person may have been discharged, in consequence of the weekly support, ordered agreeably to the provisions of this Act, not having been paid or after three months' confinement agreeably to this Act, all persons whosoever shall be indemnified, and are hereby freed and discharged against and from all suits, actions, prosecutions, informations or judgments whatsoever, that may be had, moved, prosecuted, or adjudged against them, or any of them, for or by reason, or on account of such person having been discharged as aforesaid.

Commissioners' fees.

19. And be it enacted, That there shall be paid to each of the said commissioners, by the party applying to them for any order, the following fees, and no more, for any matters done under the authority of this Act:—

For each mile necessarily travelled to attend any hearing, inquiry or examination required by this Act, sixpence.

For every order made, two shillings.

20. Provided always, and be it enacted, that this Act shall not affect, or be construed to affect, any proceedings heretofore had or now pending in the Supreme Court of this Island, or before any commissioners appointed under the authority of any of the above recited Acts hereby repealed, in relation to any application or petition for relief under any of the said Acts, at the instance of any person or persons confined within any gaol or the limits thereof, in this Island; and in case any such proceedings shall be now pending, or any order for relief, or a weekly allowance shall have been made under which the confined person or persons shall be receiving the benefit thereof at the time of the passing of this Act, such order or other proceedings shall not be abrogated, or in any manner affected by this Act, and the same shall stand, and be continued and maintained until the final end and determination thereof, in accordance with the provisions of the above recited Acts, and the said confined person or persons, as well as the detaining creditor or creditors, and the plaintiff or plaintiffs generally, in all cases in which relief may have been granted under any of the said recited Acts, to the respective defendant or defendants at any time heretofore confined at his, her, or their suit, shall be entitled to the full benefit of all the provisions of the said Acts, in all respects, as if this Act had not been passed.

This Act is not to interfere with any proceedings had or pending under the authority of any of the Acts hereby repealed.

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14 VIC., CHAP. 4.

An Act for shortening the language used in Acts of the General Assembly.

Acts may be altered, &c., in same session in which they are passed.

BE it declared and enacted by the Lieutenant Governor, Council and Assembly, and by the authority of the same, That every Act to be passed after the commencement of this Act, may be altered, amended, or repealed, in the same session of the General Assembly, any law or usage to the contrary notwithstanding.

Acts to be divided into sections.

2. Be it enacted, That all Acts shall be divided into sections, if there be more enactments than one ; which sections shall be deemed to be substantive enactments, without any introductory words.

Sufficient to cite the year of the reign, statute or session, chapter or section, &c.

Proviso.

3. Be it enacted, That in any Act, when any former Act is referred to, it shall be sufficient to cite the year of the reign ; and where there are more statutes or sessions than one in the same year, the statute or the session (as the case may require,) and where there are more chapters or sections than one, the chapter or section, or chapter and section, (as the case may require,) without reciting the title of such Act, or the provision of such section so referred to ; and the reference in all cases shall be made according to the copies of statutes, printed under and by virtue of an Act of the General Assembly of this Island, passed in the eleventh year of the reign of Her present Majesty, intituled "*An Act to provide for reprinting the laws of this Island,*" or under and by virtue of any Act of the General Assembly of this Island, hereafter to be passed, or by the Queen's Printer : Provided, that where it is only intended to amend or repeal any portion only of such section, it shall be necessary still, either to recite such portion, or to set forth the matter or thing intended to be amended or repealed.

Construction of words.

4. Be it enacted, That in all Acts, words importing the masculine gender shall be deemed and taken to include females, and the singular to include the plural, and the plural the singular, unless the contrary, as to gender or number, is expressly provided ; and the word "month" to mean calendar month, unless words be added showing lunar month to be intended ; and "county" shall be held to mean also county of a town, or of a city, unless such extended

meaning is expressly excluded by words ; and the word "land," shall include messuages, tenements and hereditaments, houses and buildings of any tenure, unless where there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure ; and the words "oath," "swear," and "affidavit " shall include affirmation, declaration, affirming and declaring, in the case of persons by law allowed to declare or affirm, instead of swearing.

5. Be it enacted, That where any Act repealing in whole or in part any former Act, is itself repealed, such last repeal shall not revive the Act or provisions before repealed, unless words be added reviving such Acts or provisions.

Certain Acts not to be revived.

6. Be it enacted, That wherever any Act shall be made, repealing in whole or in part any former Act, and substituting some provision or provisions instead of the provision or provisions repealed, such provisions so repealed shall remain in force until the substituted provision or provisions shall come into operation, by force of the last made Act.

Repealed portions of Acts to remain in force until substituted portions come into operation.

7. And be it enacted, That every Act made after the commencement of this Act shall be deemed and taken to be, a public Act, and shall be judicially taken notice of as such, unless the contrary be expressly provided and declared by such Act.

All Acts deemed public Acts, unless the contrary be expressed.

8. Provided always, nevertheless, That nothing herein contained shall have any force or effect until Her Majesty's pleasure therein shall be known.

Suspending clause.

. This Act received the Royal assent on the 23rd day of October, 1851, and notification thereof was published in the *Royal Gazette* newspaper of this Island, on the 5th January, 1852.

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15 VIC., CHAP. 14.

Amended by
15 Vic., c. 15.

An Act relating to corporate bodies.

BE it enacted, by the Lieutenant Governor, Council and Assembly, as follows :—

Corporations
may sue and
be sued, &c.

1. All corporations shall, where no other provision is specially made, be capable, in their corporate name, to sue and be sued, to prosecute and defend actions, to have a common seal, which they may alter at pleasure, to elect, in such manner as they may deem proper, all necessary officers, and to fix their compensation and define their duties, and to make by-laws and regulations, not contrary to law nor repugnant to the charter or Act by which any such corporation may be created, for their own government and due management of their officers.

Corporations
may deter-
mine mode of
calling meet-
ings, &c.

2. All corporations may, by their by-laws, where no other provision is specially made, determine the manner of calling and conducting meetings, the number of members which shall constitute a quorum, the number of shares which shall entitle the members to one or more votes, the mode of voting by proxy, the mode of selling shares for the non-payment of instalments, and of transferring shares generally, the tenure of office of the several officers, and the purchase and conveyance, and sale of their real and personal estate; and they may annex penalties to their by-laws, not exceeding, in any case, the sum of five pounds for any one offence.

First meeting
of corpora-
tion, how
convened.

3. The first meeting of all corporations shall, unless otherwise provided in their charters or Acts of incorporation, be called by notice, signed by any one or more of the persons named in the charter or Act of incorporation, and setting forth the time, place, and purposes of the meeting, and such notice shall, seven days at least before the meeting, be delivered to each member, or left at his place of residence, or published in some newspaper of the county where the corporation may be established, or where its principal place of business shall be situate; or if there be no newspaper in the county, then in two of the Charlotte-town newspapers.

Shares of
stockholders
deemed per-
sonal prop-
erty.

4. Notwithstanding the corporation may hold real estate, the shares of the stockholders shall be deemed to be personal property for all purposes.

5. The real estate of the company may be sold under execution, in the same manner as personal estate, and the sheriff shall, immediately after the sale, execute a deed to the purchaser, which shall convey all the estate and interest of the company in the real estate so sold and conveyed.

Real estate may be sold under execution.

6. All Acts or charters of incorporation shall expire, unless the company thereby established shall go into operation within three years from the passing thereof, unless otherwise specially provided therein.

Acts or charters of incorporation to expire unless company go into operation within three years.

7. All corporations whose charters, after they shall have gone into operation, shall expire by their own limitation, or shall be annulled by forfeiture or otherwise, shall, nevertheless, be continued as bodies corporate for the term of three years after the time when they would have been so dissolved, for the purpose of prosecuting and defending suits, by or against them, and of enabling them to settle and close their concerns, to dispose of and convey their property, and to divide their capital stock, but not for the purpose of continuing the business for which such corporations were established.

Charters of corporations shall expire by their own limitation, &c.

8. When the charter of any corporation shall expire or be annulled, as provided in the preceding section, the Supreme Court, on application of any creditor of such corporation, or of any member at any time within the three years, may appoint a trustee or trustees to take charge of the estate and effects of the corporation, and to collect the debts and property due and belonging thereto, with power to prosecute and defend suits in the name of the corporation, and to appoint agents under them, and to do all other acts which might be done by such corporation, if in being, that may be necessary for the final settlement of the unfinished business of the corporation; and the power of such trustees may be continued beyond the three years, and as long as the court shall think necessary.

Supreme Court may appoint trustee or trustees in certain cases.

9. When any officer or member of a corporation is liable for any debts of the corporation, or for acts in relation to its business, or to contribute for money paid by other officers or members, on account of any such debt or acts, he may be sued therefor, either in the Supreme Court or Court of Chancery.

Officers or members of corporation may be sued.

10. The directors or board of managers, of any such corporation, the liability of whose members shall be limited by the Act or charter of incorporation, unless otherwise specially directed therein, shall, in all cases, be personally liable for any responsibility incurred by them on account of the corporation, beyond the amount of the stock subscribed, without the sanction of the company, to be obtained

Directors personally liable for any responsibility incurred by them.

at a meeting thereof, held in accordance with the by-laws, unless such larger amount of dealing be specially authorized by the Act or charter of incorporation; but this section shall not extend to insurance companies.

Seal of corporation not necessary to render acts of corporation valid.

11. The Acts of incorporated companies performed within the scope of their charters, or Acts creating them, shall be valid, notwithstanding they may not be done under, or be authenticated by the seal of such corporations.

Prohibits corporation from issuing notes, &c.

12. No corporation shall issue notes or bills for payment of money, for the purpose of circulating the same as money, or engage in any banking or insurance business, unless specially authorized to do so by its Act of incorporation; and if any corporation not so authorized shall issue such bills or notes, or shall engage in any banking or insurance business, its charter shall be thereby rendered void.

Act to come into operation immediately.

13. This Act shall come into operation immediately upon the passing thereof, and shall extend to Acts of incorporation passed during the present session of the General Assembly, but not to any Act or charter heretofore in force.

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15 VIC., CHAP. 15.

An Act to amend an Act relating to corporate bodies. 15 Vic., c. 14.

BE it enacted, by the Lieutenant Governor, Council and Assembly, that from and after the passing of this Act, all rules, orders, and by-laws of any body incorporated under any Act passed during the present session of the General Assembly, or that may be incorporated by Act passed at any future session thereof, for emolument or profit merely, and not for religious or moral purposes, shall first be submitted and approved of by the Administrator of the Government in Council for the time being, before the said rules, orders and by-laws shall have any force or effect, or be binding upon the members of the said corporate bodies; any thing in the said Acts to the contrary notwithstanding.

Rules, &c., of no effect until approved of by the Administrator of the Government.

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15 VIC., CHAP. 34.

Amended by
19 Vic., c. 17.

An Act relating to the Charlottetown Ferry and the wharves connected therewith.

11 Vic., c. 13.

WHEREAS the contract for the lease of the ferry over the Hillsborough, opposite Charlottetown, commonly called the Charlottetown ferry, to Thomas Boggs Tremain, of said town, merchant, entered into under the provisions of the Act of the eleventh year of the reign of Her present Majesty, chapter thirteen, intituled "*An Act relating to Charlottetown Ferry*," has been annulled; and by advertisement, dated the sixteenth day of February, one thousand eight hundred and fifty-two, inserted in the *Royal Gazette* newspaper of this Island, tenders have been called for at the Secretary's office for placing a steamboat of not less than four horse power, together with row and sail boats, on Charlottetown ferry, for a term of five years, and in manner therein set forth, and such tenders have been received: and whereas doubts have arisen as to the construction of the said recited Act, and the extent of the power of the Lieutenant Governor of this Island under the same, in granting a lease of the said ferry, and it is desirable that the same should be removed, so as to provide at once for the accommodation of the public: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:—

Lt. Governor
may let the
Hillsborough
ferry for five
years to low-
est tender.

1. It shall be lawful for the Lieutenant Governor, by and with the advice and consent of Her Majesty's Council, to let and grant for any space not exceeding five years, the exclusive right to the said Hillsborough Ferry, opposite Charlottetown, and the premises connected therewith, to the person or persons who may have tendered the lowest terms therefor, in accordance with the said advertisement calling for tenders as aforesaid, and provided that such person or persons shall become bound, with two responsible sureties, to be approved of by the said Lieutenant Governor in Council, to convey passengers, cattle and luggage across the said ferry by means of a good and sufficient teamboat, to be propelled by not less than four able horses, and which shall be not less than fifty feet in length, besides providing a sufficient number of good and sufficient keel or flat-bottomed boats for the conveyance of passengers, cattle and luggage across the said ferry, and also in accordance with

the provisions of this Act, hereinafter contained, relating to the same.

2. From and after the passing of this Act it shall be lawful for the Lieutenant Governor, by and with the advice aforesaid, from time to time, when occasion may require, to let and grant for any space of time not exceeding twenty years from the date of the lease, the exclusive right to the said ferry and the premises connected therewith, to any person or persons who shall become bound, as aforesaid, with two responsible sureties, to be approved of by the said Lieutenant Governor in Council, to convey passengers, cattle and luggage across the said ferry by means of a good and sufficient steamboat of not less than twelve horse power, besides providing a sufficient number of boats, as in the last clause mentioned; or if the services of a steamboat cannot be procured, or the Lieutenant Governor in Council shall think fit to employ a teamboat instead thereof, then the Lieutenant Governor, with the advice and consent aforesaid, may let and grant, for any space of time not exceeding five years from the date of the lease, the exclusive right to the said ferry and premises aforesaid, to any person who shall tender the lowest terms for the same, and become bound, as in the last clause mentioned, to convey passengers, cattle and luggage across the said ferry by means of a good and sufficient teamboat of the same description as in the last clause mentioned, besides providing a sufficient number of good and sufficient keel or flat-bottomed boats for the conveyance of passengers, cattle and luggage across the said ferry, and in both cases in accordance with the provisions of this Act, hereinafter contained, relating to the said ferry.

Lt. Governor may let said ferry for 20 years for the purpose of establishing a steamboat thereon.

3. The person whose tender may have been or shall hereafter be accepted in any of the cases aforesaid, shall be subject to such rules and regulations as shall be fixed and determined by the Lieutenant Governor in Council respecting the same, previous to the execution of the lease, license or contract; and the Act of the third William the Fourth chapter eight, intituled: "*An Act to repeal two certain Acts therein mentioned, for licensing and regulating ferries and to make other provisions in lieu thereof*," shall be binding on the Charlottetown ferryman or lessee of said ferry, licensed under this Act, who, as well as his servant or servants, and all persons acting under him in the management of the said ferry, shall be subject to all fines, forfeitures and penalties therein mentioned.

Rules and regulations for the government of the said ferry to be fixed by Lt. Governor.

* * * * *

7. No lease of the said ferry shall be given, or tender therefor accepted, wherein the rates of ferriage proposed

Rates of ferriage.

shall be higher than those which are hereinafter specified, that is to say :

Single passengers, each, four pence.

Horses, each, one shilling.

Wheel carriages, each, one shilling.

Horned cattle, each, one shilling.

Hogs, each, two pence.

Sheep, each, two pence.

Produce and other matter measured by the bushel, one half penny per bushel.

Heavy weights of every description, per hundred weight, sixpence.

Tenders to be called for by public advertisement.

8. All tenders for the said ferry shall be called for by public advertisement in the *Royal Gazette* newspaper of this Island; and such tenders may, if it be found advisable, be called for during the existence of a lease of the said ferry, so that any lease or contract founded thereon may, if required, take effect immediately upon the determination of the former lease or contract.

No tender being received, Lt. Governor may make rules, &c.

9. Where no such tender shall be received after any such advertisement, it shall be lawful for the Lieutenant Governor, with the advice aforesaid, to make such rules, regulations, and arrangements respecting the said ferry, as he shall deem to be most for the benefit and advantage of the public.

* * * * *

Penalty on persons ferrying without license.

11. Any person not being duly licensed, who shall carry over the said Charlottetown ferry any person, cattle, carriage, or other article for hire, unless by consent of the ferryman or lessee thereof, or on his not giving due attendance or complying with his duties and the terms of his contract, shall, for each offence, forfeit the sum or fine of twenty shillings, to the use of the person suing for the same, recoverable before any one of Her Majesty's justices of the peace.

Minchin's Point wharf, how managed.

12. The public wharf at Minchin's Point, opposite to Charlottetown, on the south side of the Hillsborough river, shall be under the management and control of the Lieutenant Governor in Council, who shall have power to establish the rates of wharfage to be paid by vessels using the same, and to make such other rules and regulations for the management of the said wharf, as he may think fit from time to time.

Lt. Governor to appoint a wharfinger for said wharf.

13. The Lieutenant Governor in Council may, and he is hereby authorized, from time to time, to appoint a fit and proper person to be wharfinger of the wharf at Minchin's Point, whose duty it shall be to carry out such rules and regulations as, in manner aforesaid, may be made for the

management of the same, and to demand and receive from the owners or masters of all vessels using the wharf the rate established as in the last clause mentioned ; and such wharfinger shall have the same power, with respect to the management of the wharf at Minchin's Point, and the removal of and controlover all vessels coming thereto or lying thereat, as the wharfinger of the public wharves in Charlottetown now has, or hereafter may have, in respect to such last mentioned wharves, by virtue of any Act of the General Assembly of this Island, now or hereafter to be in force.

14. If the master or owner of any vessel shall refuse to pay such wharfage rate, established as aforesaid, the wharfinger may sue for, prefer and recover the same in his own name, with costs, before any justice of the peace or court of commissioners for the recovery of small debts in Charlottetown, by summons, *capias* or otherwise ; and the amount of judgment and costs shall be levied by warrant of distress and sale of the goods and chattels of the offenders, or materials of the vessel ; such rates, when paid or recovered, to be paid into the treasury of this Island, to and for the use of Her Majesty's Government.

Wharfinger may sue for and recover wharfage before any Justice of the Peace, &c.

15. The Lieutenant Governor in Council may remove or displace any person so appointed wharfinger of the wharf at Minchin's Point, and as often as occasion may require, from time to time, appoint another person to be such wharfinger.

Lt. Governor may remove wharfinger and appoint another in his stead.

16. Any person appointed wharfinger of the wharf at Minchin's Point, who shall duly and properly discharge the duties of his office, shall be entitled to receive out of the treasury of this Island the sum of five pounds *per annum*, as remuneration for his services, and so in proportion for a shorter period, the said salary to be payable half yearly from the date of each appointment.

Allowance to wharfinger for his services.

* * * * *

* * The 4th, 5th, 6th and 17th sections of this Act having been repealed by 19 Vic., c. 17, are not herein inserted.

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16 VIC., CHAP. 12.

An Act to amend the law of evidence.

[*Passed 16th April, 1853.*]

See 12 Vic., c.
4, and 19
Vic., c. 7.

WHEREAS it is expedient to amend the law of evidence in divers particulars: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows :—

* * * * *

Not to apply
to any action,
&c., in certain
cases.

14. Nothing herein contained shall apply to any action, suit, proceeding, or bill in any court of common law, or in any ecclesiastical court, or in any other court in this Island, instituted in consequence of adultery. or to any action for breach of promise of marriage.

* * * * *

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19 VIC., CHAP. 17.

An Act to alter and amend the Act relating to the Charlottetown Ferry, and the wharves connected therewith.

[*Passed 14th April, 1856.*]

WHEREAS the contract for the lease of the Hillsborough ferry opposite Charlottetown, otherwise called the Charlottetown ferry, to John Roach Bourke, of township forty-nine, Esquire, entered into under the provisions of the Act of the fifteenth Victoria, chapter thirty-five, and dated the eighth day of April, one thousand eight hundred and fifty-one, has been annulled and declared forfeited, and a new contract for the lease of the said ferry, under the said Act, hath been or is about to be entered into by His Excellency the Lieutenant Governor; and whereas it is intended to build a ferry wharf on the Charlottetown side of the Hillsborough, and it is deemed necessary to make provision for the same, and the regulation thereof, and also otherwise to amend the law relating to the said ferry: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:—

1. The Lieutenant Governor and Council are hereby authorized to cause a new ferry wharf to be built on the Charlottetown side of the Hillsborough, at the end of Prince Street, to extend out a sufficient depth to allow the ferry boat to land passengers, cattle, carriages and other freight, without danger or difficulty, both at high and low water, and to be otherwise fitted with landing slips and docks for public convenience and safety.

Ferry wharf to be built at the end of Prince street in Charlottetown.

2. The said ferry wharf to be built at the end of Prince street shall be under the management and control of the Lieutenant Governor, or the Administrator of the Government for the time being, in Council, who shall have power to make and enforce such rules and regulations for the management and preservation of the same, and as to what boats or vessels (if any) shall be allowed to use it, or what articles shall be permitted to be deposited thereon, as from time to time he may think fit.

Wharf to be under the control of Lieut. Governor in Council.

3. It shall be the duty of such person as may from time to time be nominated and appointed by the Lieutenant Governor, authorized to

Any person appointed, authorized to

carry out
rules and col-
lect wharfage
rates, &c.

nor in Council for that purpose, to carry out such rules and regulations, as, in manner aforesaid, may be made for the management of the said new wharf, and to demand and recover in Her Majesty's name, in the Court of Commissioners for the recovery of small debts in Charlottetown, or before any two of Her Majesty's justices of the peace for the county, any sum of money which may be due from any person or persons for the use of the said wharf for a vessel, boat or otherwise.

Queen street
wharf to be
ferry wharf
until new one
be built.

4. Until the said wharf at the end of Prince street shall be completed and ready for the purposes of the said ferry wharf, the ferry boat shall start from the Queen street wharf in Charlottetown, and from the Minchin's Point wharf on the side of the Hillsborough, opposite Charlottetown, and a sufficient space at the end, or some other convenient part of each of the said wharves, shall always be kept clear for the boats employed on the said ferry to come alongside and discharge and take in passengers, cattle and goods; and it shall be the duty of the wharfinger of the Queen street wharf, and of the wharfinger of the wharf at Minchin's Point, and they are hereby empowered, with respect to their respective wharves, to enforce the provisions of this section, and to remove, or cause to be removed, all vessels, goods, boats or other things which obstruct the free approach of the ferry boats to the said wharves; and the wharfinger at Minchin's Point shall have the same duties and powers, with respect to keeping the said wharf clear for ferry boats, after the said wharf at the end of Prince street shall be completed and the ferry boats shall run therefrom, as are hereby given to him, when the ferry boats run from the Queen street wharf.

Where no
tender is re-
ceived for the
ferry, &c., Lt.
Governor
may make
rules for the
management
thereof.

5. When no tender for the said ferry shall be received, under the said Act, after any advertisement calling for the same, or where, from any cause, any contract or lease connected with the said ferry, shall become and have been declared forfeited by the Lieutenant Governor, it shall be lawful for the Lieutenant Governor, with the advice aforesaid, until a regular lease or contract shall have been entered into under this Act, to make such rules, regulations and arrangements respecting the said ferry, and the management and conduct thereof, as he shall deem to be most for the public benefit, advantage and convenience.

Lessee of ferry
to be subject
to the rules
inserted in his
contract, &c.

6. The present lessee of the said ferry and the premises connected therewith, and also every person who shall or may hereafter become the lessee or ferryman thereof, under this or the said recited Act, shall be subject to such rules and regulations as may have been or shall be fixed and determined by the Lieutenant Governor in Council, respecting the same, previous to the execution of the lease, license or contract therefor, and mentioned and specified therein; and

such lease, license or contract shall be and become void and forfeited, on breach of any of the said rules and regulations thereby required to be performed on the part of the lessee, licensee or contractor, when and so soon as a notice in writing, signed by the Lieutenant Governor, declaring the same to be forfeited for such breach, shall have been served on the lessee or contractor, or inserted twice in the *Royal Gazette* newspaper published in this Island.

7. The Lieutenant Governor, with the advice and consent aforesaid, shall, from time to time, when occasion may require, on entering into any lease or contract for the said ferry, settle and fix the times of the running of the ferry boats across the said ferry, and make such other stipulations and regulations respecting the same, and the management thereof, as he may think desirable and requisite for the public convenience and advantage.

Lt. Governor, &c., on entering into a lease of the ferry, shall settle times at which the ferry boats are to run, &c.

8. The floating brows, landing slips and docks, now or hereafter to be built on both sides of the said ferry, shall at all times be kept clear for, and used exclusively by the boats belonging to, or plying for the ferrymen or lessee of the said ferry for the time being, licensed and recognized by the Lieutenant Governor as aforesaid; and any person making use of the same, without the consent of such ferryman or lessee, shall be liable to pay a penalty not exceeding the sum of ten pounds for each offence, to the use of the ferryman or lessee, or other person suing for the same, recoverable in the name of the ferryman or lessee, or other person suing for the same, before any one of Her Majesty's justices of the peace, or mayor or city councillor, for the time being, for the city of Charlottetown.

Floating brows, etc., to be kept exclusively for use of ferry boats, &c.

9. The fourth, fifth, sixth and seventeenth sections of the said Act of the fifteenth year of Her present Majesty's reign, chapter thirty-four, shall be and the same are hereby repealed.

Repeals 4th, 5th, 6th and 17th sections of 15 Vic., c. 34.

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19 VIC., CHAP. 19.

An Act for transferring to one of Her Majesty's principal Secretaries of State the powers and estates vested in the principal officers of the Ordnance.

[*Passed 14th April, 1856.*]

7 W. IV., c.
29.

WHEREAS by various Acts of the General Assembly of this Island, and particularly by an Act of the said Assembly, made and passed in the seventh year of the reign of His late Majesty King William the Fourth, chapter twenty-nine, various powers and authorities were given to, or vested in, and exercisable by the principal officers of Her Majesty's Ordnance, and by the said Act, and by or under divers conveyances, surrenders, assignments and leases, or by some other means, divers lands, hereditaments, estates and property, held, purchased, taken, used and occupied for the ordnance and barrack services in this Island, before and at the time of the revocation by Her Majesty, next hereinafter mentioned, were vested in the said principal officers; and whereas Her Majesty hath thought fit to revoke the said letters patent of some of the said principal officers, and by other letters patent to transfer, to one of Her Majesty's principal Secretaries of State, the administration of the department, the duties of which were previously executed by the said principal officers of Her Majesty's Ordnance; and whereas it is expedient, that the said several powers and authorities, and the said lands, hereditaments, estates and property, and all interest therein respectively, should be also transferred from the said principal officers and vested in one of Her Majesty's principal Secretaries of State: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, and by the authority of the same, as follows:—

Powers, &c., vested in the principal officers of the Ordnance within this Island, to be transferred to Her Majesty's Secretary of State for the War Department.

1. All the powers, authorities, rights and privileges whatsoever, which by virtue of the said recited Act, or any other Act of the General Assembly of this Island, or of any other law, custom, or usage whatsoever, have been or were at any time vested in or exercised or exercisable by the principal officers of Her Majesty's Ordnance, or any of them within this Island, shall from henceforth continue in full force, and shall be, and the same are hereby declared to be, transferred to, and vested in, and exercisable by Her Majesty's principal Secretary of State for the time being, to whom Her

Majesty shall think fit to entrust the seals of the War Department.

2. All lands, hereditaments, estates and property whatsoever, within this Island, which, by virtue of the said recited Act, or any other Act of the said General Assembly, or of any conveyance, surrender, lease, or other assurance, or of any law, custom or usage whatsoever, before and at the time of the revocation of Her Majesty, hereinbefore mentioned, were vested in the principal officers of the ordnance on behalf of Her Majesty, or which have been at any time before the passing of this Act held, used, occupied or purchased, vested or taken by or in the name of, or by any person or persons in trust for Her Majesty for the use and service of the said department, or for the defence and security of the realm, and which have not been sold, aliened or parted with, shall from henceforth be, and the same are hereby declared to be transferred to, and vested in the last mentioned principal Secretary of State; and when any succeeding principal Secretary of State, to whom Her Majesty shall have entrusted the seals of the War Department, shall cease to hold such office, the said several lands, hereditaments, estates and property, and all lands, hereditaments, estates and property which hereafter shall be purchased or otherwise acquired within this Island by any such last mentioned principal Secretary for the time being, on behalf of Her said Majesty, shall, by virtue of this Act, be absolutely divested out of such Secretary of State so ceasing to hold such office as aforesaid; and shall, by virtue of this Act, be transferred to, and vested in his successor in the said office, immediately upon his receiving the seals of the said department, absolutely; and the said lands, hereditaments, estates and property hereby vested and hereafter to be vested in the said last mentioned principal Secretary of State, shall, as to such of them as were or shall have been purchased, or are or shall be held for an estate of inheritance in fee simple, be so vested in such last mentioned principal Secretary of State, and his successors, in the same manner, as if the fee simple thereof had been originally conveyed to such principal Secretary of State as a corporation sole, and his successors, and as to all lands, hereditaments and property purchased or held for any less estate than an estate of inheritance in fee simple, as if the same lands, hereditaments and property had been originally conveyed, surrendered, demised, or otherwise assured to such principal Secretary of State as a corporation sole, and his successors, for all existing estates or interest therein respectively, and so from time to time.

All lands, &c., within this Island vested in such officers, vested in said Secretary of State, &c.

3. All contracts, covenants and agreements heretofore made or entered into by any person or persons whomsoever, with the said principal officers of the ordnance, or any lands, hereditaments, estates and property within this

Contracts, &c., made by the principal officers of Ordinance, relating to the

public service, to be enforced by such Secretary of State.

Island, vested in or agreed to be purchased by the principal officers, or in anywise relating to the public service relating to the department, shall be deemed and taken to have been made and entered into with such principal Secretary of State as last aforesaid, and shall be executed and enforced by him in like manner, as if he had originally been party thereto, instead of the said principal officers of the ordinance; and all proceedings whatsoever which have been, or might or may have been commenced, taken or done in the names of the said principal officers on behalf of Her Majesty, shall and may hereafter be commenced, continued, taken and done in the name of such principal Secretary of State as aforesaid, in like manner (in the case of proceedings already commenced, taken or done) as if he had originally been party thereto, instead of the said principal officers of the ordinance.

Powers given by Act 7 V., c. 29, to bodies corporate to sell, to be exercised in favour of, and at the instance of Secretary of State for the War Department.

4. All powers by the said recited Act given to bodies politic or corporate, feoffees or trustees for charitable or other public purposes, tenants for life and tenants in tail, husbands, guardians, trustees, committees, curators and attorneys respectively, in the eighth section thereof mentioned, to contract and agree for the absolute sale or exchange of any messuages, lands, tenements, estates or other hereditaments, or sale of any reversion, or the grant of any lease, and to convey, surrender, demise or grant the same accordingly, shall continue in full force, and hereafter may and shall be exercised and be acted under, or take effect in favor or at the instance of the last mentioned principal Secretary of State for the time being, on behalf of Her said Majesty, and for the public service, in the same manner, and as effectually as the said powers are in and by such recited Act given or created, or made exercisable in favor or at the instance of the said principal officers for the time being, on behalf of Her said Majesty, or for the public service; and all enactments, directions and provisions in the said recited Act contained, shall continue in full force and effect, and may or shall at all times hereafter be by the last mentioned principal Secretary of State for the time being acted on, and take effect in favor of, and may be enforced by such last mentioned principal Secretary and his successors, on behalf of Her Majesty and the public service.

Such Secretary of State to be described in conveyance, &c., as "Her Majesty's principal Secretary of State for the War Department."

5. In every contract, conveyance, surrender, lease or other assurance of any lands, hereditaments, estates or property within this Island, with, unto or by the last mentioned principal Secretary of State for the time being, and in every other deed or instrument relating to any such lands, hereditaments, estates or property, or in any wise to the public service, connected with the department to which the last mentioned principal Secretary of State shall be or

shall be intended to be a party, it shall be sufficient to call or describe him by the style or title of "Her Majesty's principal Secretary of State for the War Department," without naming him; and every such contract, lease, conveyance, surrender, assurance, deed or instrument may be executed by such last mentioned principal Secretary of State, or by any other of Her Majesty's principal Secretaries of State for the time being, by signing his name thereto; and if the instrument so executed be in the form of a deed, by setting or affixing a seal thereto, and delivering the same as his deed; and whenever any contract, conveyance, surrender, lease, assurance, deed or instrument, shall be executed by any other principal Secretary of State than the principal Secretary of State for the War Department, the principal Secretary of State so executing the same shall, for that time, and on that occasion, and for the purposes thereof, so far as relates to this Island or any lands or other property therein, be deemed to be the principal Secretary of State for the War Department.

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20 VIC., CHAP. 10.

An Act for better securing the liberty of the subject.

[Passed 15th April, 1857.]

WHEREAS the present practice of bringing up prisoners on writs of *habeas corpus* is attended with delay, expense and inconvenience, not in general necessary for the purposes of justice: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:—

On cause shown Judge may order keeper of a jail to return to him whether a prisoner is detained.

1. Upon sufficient cause shown to any judge of the Supreme Court, by or on behalf of any person confined in any gaol or prison, such judge may, and is hereby empowered (instead of granting his *fiat* for a writ of *habeas corpus cum causa*, requiring the keeper of such gaol or prison to bring the prisoner before him, in order that the legality of such imprisonment may be inquired into, and discharge, bailment or recommitment had thereon) by order in writing, signed by him, with his name, addition of office, and place of residence, to require and direct such keeper to return to him whether or no such person is detained in prison, together with the day and cause of his having been taken and detained.

Return to be to same effect as to a writ of *habeas corpus*, &c.

2. It shall be the duty of such keeper, immediately upon receipt of such order, to make a true and full return in writing to such Judge, of the day and cause of such taking and detention, to the same effect as a return to a writ of *habeas corpus* would now be made, such return always to include a copy of the process, warrant or order upon which the said prisoner is held, where the same is of a criminal nature, or upon any summary complaint or conviction before any justice of the peace; and such judge may enforce obedience to such order, by process of contempt, in the same manner as he may now compel proper return to be made to a writ of *habeas corpus*.

Upon return made, Judge to proceed and adjudge on application, &c.

3. Upon return of such order, the judge may proceed to examine into and decide upon the legality of the imprisonment, and make such order, require such verification, and direct such notices or further returns in respect thereof, as he may deem necessary or proper for the purposes of justice; and may, and he is hereby empowered, by order in writing,

signed as aforesaid, to require the immediate discharge from prison, or may direct the bailment of such prisoner, or in such manner and for such purpose and with like effect and proceeding as is now allowed upon *habeas corpus*; such bail when ordered to be entered into before any justice of the peace specially named in such order, or any justice of the county or place where there is no such nomination.

4. It shall be the duty of such keeper, immediately upon the receipt of any order of a judge, in relation to a prisoner in his custody, to communicate the same to such prisoner, and to give him a true copy thereof, if demanded, and to obey the requirements of the same.

Keeper to inform his prisoner of the order, &c., and obey it.

5. Every wilful neglect or disobedience of the order of a judge, in relation to a prisoner, shall be deemed a misdemeanor, and punishable as such, by fine and imprisonment, or either, at the discretion of the court.

Wilful neglect &c., of order, punishable as a misdemeanor.

6. The matter of the return made to the order of a judge may be heard and decided on by any other judge of the Supreme Court, who shall have the same power and jurisdiction in respect thereof as the judge by whom the first order was made.

Case may be decided by other than the Judge who issued the order.

7. No orders made under this Act shall require or enable the keeper of any gaol or prison to discharge the prisoner from any commitment or charge, other than that specified in such order; but it shall be the duty of such keeper in every return made to a judge's order, to specify the several causes of commitment and detention, if more than one, and if between the time of making a return and receiving an order for the discharge or bailment, any other warrant, process or order shall have been delivered to him, requiring the detention of the prisoner, upon any charge of a criminal nature or summary complaint or conviction, such keeper shall, without any further order, make and transmit to the judge an additional return, with a copy of such warrant, process or order, and the time of receiving the same, which may be dealt with by such judge as if made pursuant to an order for that purpose granted.

No order to discharge a prisoner for cause not specified.

8. Nothing in this Act contained shall extend, or be construed to deprive any person who may have been falsely imprisoned, from his remedy by civil writ, against any person who may have illegally caused such imprisonment; but the judge, by whom relief may be afforded under this Act, may, by his order, exempt any such keeper of a gaol from civil writ, who may appear to him to have acted upon the warrant or order of any judge or justice, according to the requirement of the same, without malice or evil intent.

Act not to preclude remedy for false imprisonment.

although such warrant or order may be bad in form or substance; and any such order of exemption may be pleaded in bar to any action brought against such keeper.

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23 VIC., CHAP. 23.

An Act to amend the laws relating to Bills of Lading.

[*Passed 2nd May, 1860.*]

WHEREAS, by the custom of merchants a bill of lading of goods being transferable by endorsement, the property in the goods may thereby pass to the endorsee, but, nevertheless, all rights in respect of the contract contained in the bill of lading continue in the original shipper or owner; and it is expedient that such rights should pass with the property; and whereas it frequently happens, that the goods in respect of which bills of lading purport to be signed have not been laden on board; and it is proper, that such bill of lading in the hands of a *bonâ fide* holder for value should not be questioned by the master or other person signing the same, on the ground of the goods not having been laden as aforesaid: Be it therefore enacted by the Lieutenant-Governor, Council and Assembly as follows:—

1. Every consignee of goods named in a bill of lading, and every endorsee of a bill of lading to whom the property in goods therein mentioned shall pass upon or by reason of such consignment or endorsement, shall have transferred to and vested in him all rights of suit, and be subject to the same liabilities in respect of such goods, as if the contract contained in the bill of lading had been made with himself.

Consignee of goods and endorsee of a bill of lading to have same rights of suit, &c., as if contract made with himself.

2. Nothing herein contained shall prejudice or affect any right of stoppage in *transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods, by reason or in consequence of such consignment or endorsement.

Rights of stoppage in transitu, &c., not affected by this Act.

3. Every bill of lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment, as against the master or other person signing the same; notwithstanding that such goods, or some part thereof, may not have been so shipped, unless such holder of the bill of lading shall have had actual notice at the time of receiving the same that the goods had not

Bill of lading, &c., to be conclusive evidence of goods having been shipped against party signing the same, &c.

been in fact laden on board ; provided that the master or other person so signing may exonerate himself in respect of such misrepresentation, by showing that it was caused without any default on his part, and wholly by the fraud of the shipper or of the holder, or some person under whom the holder claims.

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24 VIC., CHAP. 7.

An Act for the preservation of the alewives' fisheries in this Island.

[*Passed 29th April, 1861.*]

WHEREAS the alewives fisheries are of considerable benefit to this Island, and it being therefore desirable that due protection should be given to the said fisheries: Be it enacted, by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act

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10. Any person or persons setting or taking up any net or nets on the Sabbath day shall be liable to the penalty imposed by the laws of this Island for a violation of the Sabbath day. Penalty for setting nets on Sunday

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24 VIC., CHAP. 27.

An Act relating to the punishment of certain cases of felony and misdemeanor.

[*Passed 29th April, 1861.*]

Preamble.

WHEREAS there are several crimes now by law punishable with death, and it is expedient that such capital punishment should in such respects be abolished, and a lesser punishment prescribed in lieu thereof; and also that the crime of incest should be made punishable in manner hereinafter enacted: Be it enacted by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act

* * * * *

Punishment
for the crime
of incest.

3. Every person hereafter convicted of the crime of incest shall be guilty of a misdemeanor, and shall be liable to be imprisoned, with or without hard labor, in the common gaol or house of correction for any term not exceeding twenty-one years.

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25 VIC., CHAP. 13.

An Act relating to limited partnerships.

[*Passed 17th April, 1862.*]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows :—

* * * * *

9. No general assignment by such partnership in case of insolvency, or insufficiency of assets for the payment of their debts shall be valid, unless it shall provide for a distribution of the partnership property among all the creditors, in proportion to the amount of their several claims, and notice thereof to be given in the *Royal Gazette* newspaper of the said Island, and the creditors, within forty days after such publication, do not dissent therefrom in writing; but debts due to Her Majesty shall first be paid or secured.

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25 VIC., CHAP. 23.

An Act for vesting all estates and property occupied by or for the Naval Service of the United Kingdom of Great Britain and Ireland in the Lord High Admiral or the Commissioner for executing the office of the Lord High Admiral of the said United Kingdom, for the time being.

[*Passed 17th April 1862.*]

Preamble.

WHEREAS divers messuages, lands, tenements and hereditaments have been at various times purchased for the use of the naval service of the United Kingdom of Great Britain and Ireland, and conveyed to several different persons in trust for Her Majesty and her royal predecessors, and her and their heirs and successors, and the same have been placed under the charge of the commissioners for executing the office of Lord High Admiral of the said United Kingdom for the time being, and it is expedient that the same, and all other messuages, lands, tenements and hereditaments that may be hereafter purchased, or in any manner used and occupied by or for the said service, should be vested in the Lord High Admiral of the said United Kingdom, or the commissioners for executing the office of Lord High Admiral aforesaid, for the time being: Be it enacted by the Lieutenant Governor, Council and Assembly, as follows:—

All lands, &c., conveyed, &c., to any persons in trust for Her Majesty for the use of the naval service to become vested in the Lord High Admiral, &c., in trust for Her Majesty's service.

1. From and after the passing of this Act, all messuages, lands, tenements and hereditaments, erections, buildings, and property whatsoever, which have been conveyed to, or are vested in any person or persons, or are held, or in any manner occupied by, or in the name of, any person or persons in trust for Her Majesty, or her royal predecessors, and her or their heirs or successors, for the use of the naval service of the said United Kingdom, or of any of the departments of or belonging to the said naval service, by whatever mode of conveyance, or by whatever title, or for whatever estate or interest therein, the same shall have been conveyed, or be vested, held or occupied, together with the rights, members, easements and appurtenances to the same respectively belonging, shall be, and become, and remain, and continue vested in the Lord High Admiral of the said United Kingdom, or the commissioners for executing the

office of Lord High Admiral aforesaid, for the time being, according to the respective nature and quality of the said messuages, lands, tenements and hereditaments, and the several estates and interests of and in the same respectively, in trust for Her Majesty, Her heirs and successors, for the public service.

2. From and after the purchase and conveyance, grant or demise thereof, all other messuages, lands, tenements and hereditaments which shall at any time or times hereafter be purchased, taken, held or occupied by the Lord High Admiral, or the commissioners for executing the office of Lord High Admiral aforesaid, for the time being, or by any person or persons, by his or their order, for the naval service of the said United Kingdom, or of any of the departments of or belonging to the said naval service, and all erections and buildings which shall then or may be thereafter erected or built thereon, with the rights, members, easements and appurtenances to the same respectively belonging, shall in like manner be and become, and remain and continue, vested in the Lord High Admiral of the said United Kingdom, or the commissioners for executing the office of Lord High Admiral aforesaid, for the time being, and his or their successors in the said office, according to the respective nature and quality of the said messuages, lands, tenements and hereditaments, and the several estates, and interests of and in the same respectively, in trust as aforesaid.

All lands, &c., hereafter purchased to become vested in the Lord High Admiral, &c., in trust as aforesaid.

3. Upon the death, resignation or removal of the present commissioners for executing the office of Lord High Admiral of the said United Kingdom, or of any of them, or of any future such commissioners, or of any Lord High Admiral of the said United Kingdom, all such messuages, lands, tenements and hereditaments, respectively, shall become vested in, and be held by, the succeeding commissioners for executing the office of Lord High Admiral aforesaid, or the Lord High Admiral aforesaid, as the case may be, and so in perpetual succession, according to the respective nature and quality of the said messuages, lands, tenements and hereditaments, and the several estates and interests of and in the same respectively, in trust as aforesaid.

Upon the resignation, death, &c., of Commissioners, or Lord High Admiral, lands, &c., to become vested in their successors.

4. In all deeds, conveyances, leases, contracts and other instruments touching any estate, property, matter or thing relating to the naval service of the said United Kingdom, or to any department under the control of the commissioners for executing the office of Lord High Admiral aforesaid, or whereto they or any of them shall be parties, it shall be sufficient to describe them generally by the style and title of "The commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland," without expressing their names, and all such

Property for the naval service to be conveyed to the Lord High Admiral.

deeds, conveyances, leases, contracts and other instruments wherein the said commissioners shall be so described, and the execution or signature thereof, by any two of them, shall be as valid and effectual to all intents and purposes, as if they or any of them had been expressly named therein, and had executed or signed the same.

Power to sell
and exchange,
&c.

5. It shall and may be lawful for the commissioners for executing the office of Lord High Admiral aforesaid, for the time being, or any two or more of them, or the Lord High Admiral aforesaid, to sell, exchange, or in any manner dispose of, or let, or demise any of the messuages, lands, tenements and hereditaments respectively, which shall be vested in them under or by virtue of this Act, with their respective appurtenances, either by public auction or private contract, and in due form of law to convey, surrender, assign or make over, or to grant, or demise the same respectively, as the case may require, to any person or persons who shall be willing to purchase or take the same respectively, and also to do any other act, matter or thing in relation to any such messuages, lands, tenements and hereditaments which they or he shall deem beneficial for the public service in relation thereto, or for the better management thereof, which might be done by any person or persons having a like interest in any such messuages, lands, tenements or hereditaments.

Commission-
ers empower-
ed to sue, &c.

6. It shall be lawful for the said commissioners for executing the office of Lord High Admiral aforesaid, for the time being, or the Lord High Admiral aforesaid, for the time being, and they are hereby authorized and empowered to bring, prosecute and maintain any action, suit or other proceedings at law or in equity, for recovering possession of any messuages, lands, tenements or hereditaments by this Act vested in them or him as aforesaid, and to distrain or sue for any arrears of rent which shall have or shall become due for or in respect thereof, under any demise from the said commissioners, or Lord High Admiral, or any person or persons on their or his behalf, or on behalf of Her Majesty, and also to bring, prosecute or maintain, or to defend any other action or suit in respect of or in relation to the said messuages, lands, tenements or hereditaments, or any trespass or encroachment committed thereon, or damage or injury done thereto, and that in every such action or suit the said commissioners shall be called "The commissioners for executing the office of Lord High Admiral of Great Britain and Ireland," without naming them; and no such action or suit shall abate by the death, resignation or removal of such commissioners, or any of them, or of such Lord High Admiral, any law, custom or usage to the contrary notwithstanding; and the said commissioners or Lord High Admiral shall be entitled to recover costs for and on

behalf of Her Majesty, where judgment shall be given for the Crown, and shall be liable to pay costs, where judgment shall be given against the Crown, in any such action, suit or other proceeding in like manner, and subject to the same rules and provisions as though such action, suit or other proceeding had been had between subject and subject.

Commissioners, &c., liable to pay, and entitled to receive costs, &c.

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27 VIC., CHAP. 9.

14 Vic., c. 2. An Act to amend the Act now in force for the relief of Insolvent Debtors.

[*Passed 2nd May, 1864.*]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:—

Orders for relief, where may be signed by one Judge or Commissioner.

1. That the original order which the Supreme Court, or the judges thereof, or the commissioners appointed to carry into effect the purposes and provisions of the Act of the fourteenth year of Her Majesty Queen Victoria, chapter the second, are on application of any party, for relief as an insolvent debtor, authorized and required to make, by the fifth section of the said recited Act, to the sheriff or gaoler, in whose custody the applicant shall be confined, in order to bring such person up before them, may hereafter be made either by the court or by one judge thereof, or by one of the said commissioners.

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27 VIC., CHAP. 32.

An Act relating to Steam communication between Charlottetown and certain parts of the Hillsborough and Elliot Rivers, and to repeal a certain Act therein mentioned.

[*Passed 2nd May, 1864.*]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:—

1. From and after the passing of this Act it shall be lawful for the Lieutenant Governor, or other Administrator of the Government for the time being, with the advice of Her Majesty's Executive Council, to let and grant to any individual or company, for any period not exceeding ten years, the exclusive right of running one or more good and sufficient steamboats, for the use and accommodation of the public, between Charlottetown and Mount Stewart Bridge, on the Hillsborough River, and between Charlottetown and Bonshaw Bridge, or any other point or points on the Elliot River; and also shall have power to prescribe, how often from the opening of the navigation to the close, and the days on which such steamboat or steamboats shall run or perform their trips on said rivers; and also to fix the points or places at which they shall call on their respective routes, and the rates of fare or charges for the conveyance of passengers' luggage and freight, which shall or may be charged by the owner or owners of the steamer or steamers whose tender shall be accepted by the Executive Government.

Lt. Governor
and Council
empowered to
grant 10
years' right to
run boat.

2. It shall be the duty of the Lieutenant Governor or other Administrator of the Government for the time being, in Council, before entering into any contract for any of the purposes aforesaid, to notify the public, by advertisements in some one or more of the newspapers published in Charlottetown, that the privilege of running the said steamboat or steamboats in manner by this Act provided, is open to public competition for such time as in such advertisement may in that behalf be limited or expressed; and it shall be the duty of the Lieutenant Governor in Council, to contract and agree with such person or persons as may be willing to accept and enter into the said contract, upon the best and most favorable terms for the interests of the public; and in

Notices to be
published.

Security of
passengers.

such contracts shall and may be contained and set forth all such clauses, stipulations and agreements as may be deemed by the Executive Government necessary or desirable for the security of the passengers and property to be conveyed in and on board of such steamboat or steamboats; and to ensure regularity in the running of such boat or boats, or which may in any way or manner tend to the convenience or accommodation of the public.

Mails to be
taken.

3. In entering into any such contract, the Lieutenant Governor shall have power and authority to bind the party or parties agreeing to run such steamboat or steamboats, to convey any mails on board the same to and from any place or places within the several routes of such steamboat or steamboats, when and as often as may be required by any regulation of the Post Office Department, or any order of the Government of this Island, or of the Postmaster General in that behalf.

Bond to be
given.

4. The Lieutenant Governor in Council shall cause the party contracting for the service of such boat or boats, to enter into a bond with two sufficient sureties, for the due performance of such contracts as may be entered into; and in case of non-compliance with the conditions of such contract, the Lieutenant Governor in Council shall have power to determine the same.

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OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



29 VIC., CHAP. 11.

An Act to amend the Act intituled “*An Act for establishing a Court of Divorce in this Island, and for repealing a certain Act therein mentioned.*” 5 W. IV., cap. 10.

[Passed 11th May, 1866.]

WHEREAS the Act of the General Assembly of the said Island, passed in the fifth year of the reign of his late Majesty, King William the Fourth, intituled “*An Act for establishing a Court of Divorce in this Island, and for repealing a certain Act therein mentioned,*” contains no provision compelling the sheriffs of the several counties to serve any citations, writs or orders, or to execute any process of contempt, in case they should decline or refuse, when ordered or directed by the said court so to do; and whereas it is expedient that the sheriffs of the several counties should execute the process of the said court, when required so to do: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly:—

1. That it shall be the duty of the sheriffs in the several counties, to serve any citations, writs, orders or decrees, and to execute any process of contempt, or any other process of the said court, within their respective counties, that may be sent to them for that purpose. Sheriff to execute writs, &c., of Divorce Court.

2. All sheriffs, deputy sheriffs, gaolers, constables, and other officers shall be aiding, assisting and obeying the said court, in the exercise of its jurisdiction, whenever required so to do. Sheriffs, &c., to aid and obey the Court of Divorce.

3. The common gaol of the County of Queen's shall be the prison of the said court: Provided always, that in case it shall be expedient, and it shall seem to the said court that the ends of justice require it, any prisoner of the court may be committed to the common gaol of any county within which he may reside, in case the court or the Lieutenant Governor shall so order or direct. Queen's County Jail to be the prison of said Court. Proviso.



29 VIC., CHAP. 37.

An Act for the regulation of Benefit Building Societies.

[*Passed 11th May, 1866.*]

Preamble.

WHEREAS certain societies, commonly called building societies, have been established in different parts of the United Kingdom of Great Britain, and in the Provinces of British North America, principally amongst the industrious classes, for the purpose of raising, by small periodical subscriptions, a fund to assist the members thereof in obtaining a small freehold or leasehold property, and it is expedient to afford encouragement and protection to such societies, and the property obtained therewith in this Island: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly:—

Societies may
be formed.

Value of
shares, &c.,
how raised.

Object of as-
sociation.

Power to
frame and
amend rules,
impose fines,
&c.

1. That it shall and may be lawful for any number of persons in this Island to form themselves into and establish societies for the purpose of raising, by the monthly or other subscriptions of the several members of such societies, shares not exceeding the value of one hundred and fifty pounds for each share, such subscriptions not to exceed in the whole twenty shillings per month for each share, or stock or fund, for the purpose of enabling each member thereof to receive out of the funds of such society the amount or value of his or her share or shares therein, to erect or purchase one or more dwelling house or dwelling houses, or other real or leasehold estate, to be secured by way of mortgage to such society until the amount or value of his or her shares shall have been fully repaid to such society, with the interest thereon, and all fines and other payments incurred in respect thereof; and to and for the several members of such society, from time to time, to assemble together and to make, ordain and constitute such wholesome and proper rules and regulations for the government and guidance of the same as to the major part of the members of such society, so assembled together, shall seem meet, so as such rules shall not be repugnant to the express provisions of this Act and to the general laws of this Island; and to impose and inflict such reasonable fines, penalties and forfeitures upon the several members of any such society who shall offend against any such rules, as the members may think fit, to be respectively paid to such uses for the benefit

of such society, as such society, by such rules, shall direct; and also, from time to time, to alter and amend such rules as occasion shall require, or annul or repeal the same, and to make new rules in lieu thereof, under such restrictions as are in this Act contained: Provided, that no member shall receive, or be entitled to receive, from the funds of such society, any interest or dividend, by way of annual, or other periodical profit, upon any shares in such society until the amount or value of his or her share shall have been realized, except on the withdrawal of such member, according to the rules of such society then in force.

No dividend until share realized, unless on withdrawal.

2. It shall and may be lawful to and for any such society in and by the rules thereof, to describe the form or forms of conveyance, mortgage, transfer, agreement, bond, or other instrument which may be necessary for carrying the purposes of the said society into execution, and which shall be specified and set forth in a schedule to be annexed to the rules of such society, and duly certified and deposited as hereinafter provided.

The rules may prescribe forms of instruments.

3. There shall be made two transcripts, fairly written on paper or parchment, of all rules made in pursuance of this Act, signed by three members, and countersigned by the Secretary of any such society (accompanied, in the case of an alteration or amendment of rules, with an affidavit of the Secretary or one of the officers of the said society, that the provisions of this Act have been duly complied with), with all convenient speed after the same shall be made, altered or amended; and so, from time to time, after every making, altering or amending thereof, shall be transmitted to Her Majesty's Attorney General of this Island, for the purpose of ascertaining whether the said rules of such society, or alteration or amendment thereof, are calculated to carry into effect the intention of the parties framing such rules, alterations or amendments, and are in conformity to law and to the provisions of this Act; and that the said Attorney General shall advise with the Secretary, if required, and shall give a certificate on each of the said transcripts, that the same are in conformity to law and to the provisions of this Act, or point out in what part or parts the said rules are repugnant thereto; and that the Attorney General, for advising as aforesaid, and perusing the rules or alterations, or amendments of the rules of each respective society, and giving such certificates as aforesaid, shall demand no further fee than the sum of one guinea, which shall be defrayed by each society respectively; and one of such transcripts, when certified by the Attorney General, shall be returned to the society, and the other of such transcripts shall be transmitted by the Attorney General to the Supreme Court of Judicature, at Charlottetown, during the term next after the time when such transcript shall have been so certified as

Two transcripts of rules and amended rules.

For the Attorney General.

To advise thereon and give certificate.

His fee.

How transcripts disposed of.

To be confirmed by Supreme Court and filed.

Certified rules to bind society.

aforesaid ; and the justices of the said Supreme Court are hereby authorized and required, upon motion of counsel, to allow and confirm the same ; and such transcript shall be filed by the prothonotary of the said court, with the records of the said Supreme Court in his custody, without fee or reward ; and that all rules, alterations and amendments thereof, from the time when the same shall be certified by the Attorney General, shall be binding on the several members and officers of the said society, and all persons having interest therein.

On refusing to certify, rules may be submitted by society to Supreme Court.

4. In case the Attorney General shall refuse to certify all or any of the rules, so to be submitted for his perusal and examination, it shall then be lawful for any such society to submit the same to the said Supreme Court, together with the reasons assigned by the Attorney General, in writing, for any such rejection or disapproval of any one or more such rules ; and that the said Supreme Court shall and may, if deemed fit, confirm and allow the same, notwithstanding any such rejection or disapproval by the Attorney General.

Attorney General's further fees.

5. The Attorney General shall be entitled to no further fee for or in respect of any alteration or amendment of any rules upon which one fee has been already paid to the Attorney General, within the period of three years : Provided also, that if any rules, alterations or amendments are sent to the Attorney General, accompanied with an affidavit of being a copy of any rules or alterations or amendments of the rules of any other society which shall have been already enrolled under the provisions of this Act, the Attorney General shall certify and return the same, as aforesaid, without being entitled to any fee for such certificate.

Rules must be entered in book to be kept by Secretary and open to members' inspection.

Nothing to prevent amendments.

But not to be in force, until, &c.

6. No such society, as aforesaid, shall have the benefit of this Act unless all the rules for the management thereof shall be entered in a book to be kept by the secretary of such society, and which book shall be open at all seasonable times for the inspection of the members of such society ; but, nevertheless, nothing contained herein shall extend to prevent any alteration in or amendment of any such rules, so entered or transmitted and filed as aforesaid, or repealing or annulling the same, or any of them, in the whole or in part, or making any new rules for the management of such society, in such manner as by the rules of such society shall, from time to time, be provided ; but such new rules, or such alterations in or amendments of former rules, or any order annulling or repealing any former rules, in the whole or in part, shall not be in force until the same respectively shall be entered in such book, as aforesaid, and certified, when necessary, by the Attorney General, and until a transcript thereof shall be transmitted to the Supreme Court, as aforesaid, and the prothonotary shall file and certify the same as aforesaid.

7. All rules from time to time made and in force for the management of such society as aforesaid, and duly entered in such book, as aforesaid, and confirmed by the said Supreme Court as aforesaid, shall be binding on the several members and officers of such society, and the several contributors thereto and representatives, all of whom shall be deemed and taken to have full notice thereof, by such entry and contribution as aforesaid; and the entry of such rules in such book as aforesaid, or the transcript thereof, transmitted to the said Supreme Court, and filed with the prothonotary thereof, as aforesaid, or a true copy of such transcript examined with the original, and proved to be a true copy, shall be received as evidence of such rules respectively in all cases; and no legal process whatever shall be brought or allowed to remove any such rules into any court of law or equity within this Island; and every copy of any such transcript, transmitted and filed as aforesaid, shall be made without fee or reward, except the actual expense of making such copy.

And so entered and confirmed by Supreme Court, to be binding.

What copies, &c., to be evidence.

No legal process to remove rules into any Court.

8. No rule, confirmed by the Supreme Court, as aforesaid, shall be altered, rescinded or repealed, unless at a general meeting of the members of such society, as aforesaid, convened by public notice, written or printed, signed by the secretary or president of such society, in pursuance of a requisition for that purpose by seven or more of the members of such society; which said requisition and notice shall be publicly read at the two usual meetings of such society to be held next before such general meeting, for the purpose of such alteration or repeal, unless a committee of such members shall have been nominated for that purpose at a general meeting of the members of such society, convened in manner aforesaid, in which case such committee shall have the like power to make such alterations or repeal, and unless such alterations or repeal shall be made with the concurrence and approbation of three-fourths of the members of such society then and there present, or by the like proportion of such committee as aforesaid, if any shall have been nominated for that purpose.

Confirmed rules to be altered only by special general meeting.

Or specially appointed committee.

9. The rules of every society formed under the authority of this Act, shall specify the place or places at which it is intended such society shall hold its meetings, and certain provisions with respect to the powers and duties of the members at large, and of such committees or officers as may be appointed for the management of the affairs of such society: Provided always, that it shall and may be lawful for any such society to alter their place or places of meeting whenever they may consider it necessary, upon giving notice thereof in writing to the Supreme Court during the next term before or after such removal, and signed by the secretary or other principal officer, and also by three or more of the members of the said

Rules to specify places to hold Society's meeting.

How such places to be altered.

society; and which said notice shall be filed in like manner as is hereinbefore directed concerning the said rules, or the alterations or amendments.

Society may appoint its officers.

Fill vacancies, &c.

Those officers receiving or expending its moneys, to give bond with two sureties under penalty.

To whom as obligee.

Provision in case of forfeiture.

Society may appoint committee and delegate powers.

10. That every such society shall and may, from time to time, at any of their usual meetings, or by their committee, if any such shall be appointed for that society, elect and appoint such person into the office of trustee, president, secretary, surveyor or treasurer of such society as they shall think proper, and also shall and may, from time to time, elect and appoint such other officers as shall be deemed necessary to carry into execution the purposes of such society for such space of time, and for such purposes as shall be fixed and established by the rules of such society, and from time to time to elect and appoint others in the room of those who shall vacate or die; and such trustee, treasurer, and all and every other officer or other person whatever, who shall be appointed to any office, in anywise touching or concerning the receipt, management or expenditure of any sum of money collected for the purpose of any such society, before he, she or they shall be admitted to take upon him, her or them, the execution of any such office or trust (if required so to do by the rules of such society to which such officer shall belong), shall become bound in a bond according to the form prescribed in the schedule to this Act annexed, marked (A), with two sufficient sureties, for the just and faithful execution of such office or trust, and for rendering a just and true account according to the rules of such society, and in all matters lawful, to pay obedience to the same, in such penal sum of money as by the major part of such society at any such meeting, as aforesaid, shall be thought expedient, and to the satisfaction of such society; and that every such bond to be given by or on behalf of such trustee or treasurer, or of any other person appointed to any other office or trust, shall be given to the keeper of the rolls of the commission of the peace in the county wherein such society shall be established for the time being, without fee or reward; and in case of forfeiture it shall be lawful to sue upon such bond, in the name of such keeper of the rolls of such commission of the peace, for such county, as aforesaid, for the time being, for the use of the said society, fully indemnifying and saving harmless such keeper of the rolls, as aforesaid, from all costs and charges in respect of such suit.

11. Every such society shall and may, from time to time, elect and appoint any number of the members of such society to be a committee, the number thereof to be declared in the rules of every such society; and shall and may delegate to such committee all or any of the powers given by this Act to be executed, who, being so delegated, shall continue to act as such committee for and during such time as they shall be appointed for such society for general purposes, the powers

of such committee being first declared in and by the rules of such society confirmed by the Supreme Court, and filed in the manner hereinbefore directed; and all acts and orders of such committee, under the powers so delegated to them, shall have the like force and effect as the acts and orders of such society, at any general meeting thereof, could or might have had in pursuance of this Act: Provided always, that the transactions of such committee shall be entered in a book belonging to such society, and shall be, from time to time, and at all times, subject and liable to the review, allowance, or disallowance or control of such society, in such manner and form as such society shall, by their general rules, confirmed by the Supreme Court and filed as aforesaid, have directed and appointed, or shall in like manner direct and appoint.

Powers delegated to be declared in rules.

Committee's transactions to be subject to review.

12. Every person who shall have or receive any part of the moneys, effects or funds of or belonging to any such society, or shall in any manner have been or shall be entrusted with the disposal, management or custody thereof, or of any securities, books, papers or property relating to the same, his or her executors, administrators and assigns, respectively, shall upon demand made, or notice in writing given or left at the last or usual place of residence of such persons, in pursuance of any order of such society or committee to be appointed as aforesaid, give in his or her account at the usual meeting of such society, or to such committee thereof, as aforesaid, to be examined and allowed or disallowed, by such society or committee thereof; and shall on the like demand or notice, pay over all the moneys remaining in his or her hands, and assign and transfer, or deliver all securities and effects, books, papers and property taken or standing in his or her name as aforesaid, and being in his or her hands or custody, to the trustee or treasurer for the time being, or to such other person as such society or committee thereof shall appoint; and in case of any neglect or refusal to deliver such account, or to pay over such moneys, or to assign, transfer or deliver such securities and effects, books, papers and property in manner aforesaid, it shall and may be lawful to and for every such society, in the name of the trustee or treasurer or other principal officer thereof, as the case may be, to exhibit a petition to the said Supreme Court, who shall and may proceed thereon in a summary way, and make such order therein, upon hearing all parties concerned, as to such court in their discretion, shall seem just, which order shall be final and conclusive; and all assignments, sales and transfers made in pursuance of such order, shall be good and effectual in law, to all intents and purposes whatsoever.

Persons receiving moneys or securities to render account on notice, and pay over moneys to trustee or treasurer.

On default, society may petition Supreme Court which will proceed in summary way and make final order.

13. When and so often as any person seized or possessed of any lands, tenements or hereditaments, or other property,

Supreme Court may appoint per-

son to convey society's property in place of trustee out of jurisdiction, &c.

Judges of Supreme Court to appoint persons, &c.

No fee to officers of the Court.

Court to assign counsel.

Society's claims in respect of moneys, &c., in possession of officer, by virtue of his office who shall die or become insolvent, &c., to have priority.

or any estate or interest therein, as a trustee of any such society, shall be out of the jurisdiction of or not amenable to the process of any of the courts of law and equity of this Island, or shall be idiot, lunatic, or of unsound mind, or it shall be unknown or uncertain whether he or she be living or dead, or such person shall refuse to convey or otherwise assure such lands, tenements, hereditaments or property, or estate or interest to the person duly nominated as trustee of such society, in their stead, either alone or together, with any continuing trustee, as occasion shall require, then and in every or any such case, it shall be lawful for the judges of the said Supreme Court to appoint such person as to such court shall seem meet, on behalf and in the name of the person seized or possessed as aforesaid, to convey, surrender, release, assign, or otherwise assure the said lands, tenements, hereditaments or property, or estate or interest to such trustee so duly nominated as aforesaid; and every such conveyance, release, surrender, assignment or assurance shall be as valid and effectual to all intents and purposes as if the person being out of the jurisdiction or not amenable to the process of the said court, or not known to be alive, or having refused, or as if the person being idiot, lunatic or of unsound mind, had been at the time of the execution thereof, of sane mind, memory and understanding, and had, by himself or herself, executed the same.

14. No fee, reward, emolument or gratuity whatsoever shall be demanded, taken or received by any officer of such court, for any matter or thing done in such court in pursuance of this Act; and that upon the presenting of any such petition, it shall be lawful for the judges of the said court to assign counsel learned in the law on behalf of such society, who are hereby respectively required to do their duties therein without fee or reward.

15. If any person who may hereafter be appointed to any office in any such society, and being intrusted with the keeping of the accounts, or having in his hands or possession, by virtue of his said office or employment, any moneys or effects belonging to such society, or any deeds or securities relating to the same, shall die, or become bankrupt or insolvent, or have any execution or attachment, or other process, issued against his lands, goods, chattels or effects, or property or estate, heritable or movable, or make any disposition, assignment, or other conveyance thereof, for the benefit of his creditors, his heirs, executors, administrators or assigns, or other person having legal right, or the sheriff or other officer executing such process, shall within forty days after demand made in writing by the order of any such society or committee thereof, or the major part of them assembled at any meeting thereof, deliver and pay over all moneys and other things belonging to such society to such person as

such society or committee shall appoint, and shall pay out of the estate, assets or effects, heritable or movable of such persons, all sums of money remaining due which such person received by virtue of his said office or employment before any other of his debts are paid or satisfied, or before the money directed to be levied by such process as aforesaid, or which may be recovered or recoverable under the same, is paid over to the party issuing such process; and all such assets, lands, goods, chattels, property, estates and effects shall be bound to the payment and discharge thereof accordingly.

16. All real and heritable property, moneys, goods, chattels and effects whatever, and all titles, securities for money, or other obligatory instruments and evidences or muniments, and all other effects whatever, and all rights and claims belonging to or had by such society, shall be vested in the trustees or treasurer of such society for the time being, for the use and benefit of such society and the respective members thereof, their respective executors or administrators, according to their respective claims and interest; and after the death or removal of any trustee or treasurer, shall vest in the succeeding trustee or treasurer for the same estate or interest as the former trustee or treasurer had therein, and subject to the same trusts, without any assignment or conveyance whatever: and also shall, for all purposes of action or suit, as well criminal as civil, in law or in equity, in anywise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding, when necessary, be stated to be, the property of the person appointed to the office of trustee or treasurer of such society for the time being, in his or her proper name, without further description; and such person shall, and he or she is hereby respectively authorized to bring or defend, or cause to be brought or defended, any action, suit or prosecution, criminal as well as civil in law or in equity, touching or concerning the property, right or claim aforesaid, of or belonging to or had by such society, provided that such person shall have been thereunto duly authorized by the consent of the majority of members present at any meeting of the society or committee thereof; and such person so appointed, shall and may, in all cases concerning the property, right or claim aforesaid, of such society, sue and be sued, plead and be impleaded, in his or her proper name, as trustee or treasurer of such society, without other description: and no such suit, action or prosecution shall be discontinued or abate by the death of such person, or his or her removal from the office of trustee or treasurer, but the same shall and may be proceeded in by the succeeding trustee or treasurer in the proper name of the person commencing the same, any law, usage or custom to the contrary notwithstanding: and such succeeding trustee or treasurer shall pay or receive like costs as if the action or

Property to vest in trustee or treasurer, and on death or removal, in succeeding one without assignment, and in all proceedings to be stated as their property, &c.

Succeeding officer's costs.

suit had been commenced in his or her name for the benefit of, or to be reimbursed from the funds of such society.

Trustee or treasurer not to be liable for deficiency of funds unless by declared consent.

May limit responsibility to a definite sum.

Liable for moneys actually received.

17. The trustee or treasurer, or any officer of any society established under the authority of this Act, shall not be liable to make good any deficiency which may arise in the funds of such society, unless such persons shall have respectively declared, by writing, under their hands, transmitted and registered in like manner with the rules of such society, that they are willing so to be answerable; and it shall be lawful for each of such persons, or for such persons collectively, to limit his, her or their responsibility to such a sum as shall be specified in any such instrument or writing: Provided always, that the said trustee and trustees or treasurer, and every the officer of any such society, shall be and they are hereby declared to be, personally responsible and liable for all moneys actually received by him, her or them on account of, or to or for the use of the said society.

Provision for security of trustees on payment of money to the apparent representatives of member dying intestate

18. Whensoever the trustees of any society established under this Act, at any time after the decease of any member, have paid and divided any sum of money to or amongst any person or persons who shall at the time of such payment appear to such trustees to be entitled to the effects of any deceased intestate member, the payment of any such sum or sums of money shall be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased intestate member against the funds of such society, or against the trustees thereof; but, nevertheless, such next of kin or representative, shall have remedy for such money so paid as aforesaid against the person or persons who shall have received the same

Member dying entitled to a sum not exceeding £20, and Trustee or Treasurer satisfied of intestacy, and that administration will not be taken out, have to pay the same.

19. In case any member of any society shall die, who shall be entitled to any sum not exceeding twenty pounds, it shall be lawful for the trustees or treasurer of such society, and they are hereby authorized and permitted, if such trustees or treasurer shall be satisfied that no will was made and left by such deceased member, and that no letters of administration will be taken out of the funds, goods and chattels of such depositor, to pay the same at any time after the decease of such member, according to the rules and regulations of the said society; and in the event of there being no rules and regulations made in that behalf, then the said trustees or treasurer are hereby authorized and permitted to pay and divide the same to and amongst the person or persons entitled to the effects of the deceased intestate, and that without administration.

Officers or members, &c., fraudulently obtaining So-

20. For the more effectually preventing fraud and imposition in the funds of such societies, if any officer, member or any other person, being or representing himself or herself

to be a member of such society, or the nominee, executor, administrator or assignee of any member of such society, or any other person whatever, shall, in or by any false representation or imposition, fraudulently obtain possession of the moneys of such society, or any part thereof, or having in his or her possession any sum of money belonging to such society, shall fraudulently withhold the same, and for which offence no especial provision is made in the rules of such society, it shall be lawful for any one justice of the peace residing within the county within which such society shall be held, upon complaint made on oath by an officer of such society, to summon such person against whom such complaint shall be made to appear at a time and place to be named in such summons; and upon his or her appearance, or in default thereof, upon due proof upon oath of the service of such summons, it shall and may be lawful for any two justices, residing within the county aforesaid, to hear and determine the said complaint according to the rules of the said society, confirmed as directed by this Act; and upon due proof of such fraud, the said justices shall convict the said party, and award double the amount of the money, so fraudulently obtained or withheld, to be paid to the treasurer to be applied by him to the purposes of the society so proved to have been imposed upon and defrauded, together with such costs as shall be awarded by the said justices, not exceeding the sum of ten shillings; and in case such persons against whom such complaint shall be made, shall not pay the sum of money so awarded to the person and at the time specified in the said order, such justices are hereby required, by warrant under their hands and seals, to cause the same to be levied by distress and sale of goods of such person on whom such order shall have been made, or by other legal proceeding, together with such costs as shall be awarded by the said justices, not exceeding the sum of ten shillings; and also the costs and charges attending such distress and sale, or other legal proceeding, returning the overplus, if any, to the owner; and in default of such distress being found, the said justices of the peace shall commit such person, so proved to have offended, to the county gaol, there to be kept to hard labor for such a period not exceeding three calendar months, as to them shall seem fit: Provided nevertheless, that nothing herein contained shall prevent the said society from proceeding, by indictment or complaint, against the party complained of; and provided also that no party shall be proceeded against, by indictment or complaint, if a previous conviction has been obtained for the same offence under the provisions of this Act.

society's moneys and no special provision in the rules, proceedings before Justices of the Peace.

On conviction double the amount to be awarded and paid to the Treasurer.

Proceedings in case of non-payment on default of distress found; committed to jail and hard labor.

21. Provision shall be made by one or more of the rules of every such society, to be confirmed as required by this Act, specifying whether a reference of every matter in dispute between any such society or any person acting under them,

Rules to declare whether disputes shall be referred to Justices or to Arbitrators.

How arbitrators to be appointed.

In case of death, &c.

Form of award.

Which shall be final.

On refusal to perform, reference to Justice.

Course of proceeding.

and any individual member thereof or persons claiming on account of any member, shall be made to such of Her Majesty's justices of the peace as may act in and for the county in which such society may be formed, or to arbitrators to be appointed in manner hereinafter directed; and if the matter so in dispute shall be referred to arbitration, certain arbitrators shall be named and elected at the first meeting of such society or committee thereof that shall be held after the enrolment of its rules, none of the said arbitrators being beneficially interested, directly or indirectly, in the funds of the said society, of whom a certain number, not less than three, shall be chosen by ballot; in each such case of dispute, the number of the said arbitrators and mode of ballot being determined by the rules of each society respectively; the names of such arbitrators shall be duly entered in the book of the said society in which the rules are entered as aforesaid, and in case of the death, or refusal or neglect of any or all of the said arbitrators to act, it shall and may be lawful to and for the said society, or committee thereof, and they are hereby required, at their next meeting, to name and elect one or more arbitrator or arbitrators as aforesaid, to act in the place of the said arbitrator or arbitrators so dying, or refusing or neglecting to act as aforesaid; and whatever award shall be made by the said arbitrators, or the major part of them, according to the true purport and meaning of the rules of such society, confirmed by the Supreme Court according to the directions of this Act, shall be in the form of this Act annexed, and shall be binding and conclusive on all parties, and shall be final to all intents and purposes without appeal or being subject to the control of one or more justices of the peace, and shall not be removed or removable into any court of law, or restrained or restrainable by the injunction of any court of equity; and should either of the said parties in dispute refuse or neglect to comply with or conform to the decision of the said arbitrators, or the major part of them, it shall and may be lawful for any one justice of the peace, residing within the county within which such society shall be held, upon good and sufficient proof being adduced before him of such award having been made, and of the refusal of the party to comply therewith, upon complaint made by or on behalf of the party aggrieved, to summon the person against whom such complaint shall be made to appear at a time and place to be named in such summons; and upon his or her appearance, or in default thereof, upon due proof upon oath of the service of such summons, any two justices of the peace may proceed to make such order thereupon as to them may seem just; and if the sum of money so awarded, together with a sum for costs not exceeding the sum of ten shillings, as to such justices shall seem meet, shall not be immediately paid, then such justices shall, by warrant under their hands and seals cause such sum and costs, as aforesaid, to be levied by distress or by distresses and sale of the moneys, goods,

chattels, securities and effects belonging to the said party, or to the said society, or other legal proceeding, together with all future costs and charges attending such distress and sale or other legal proceeding, returning the overplus, if any, to the said party or to the said society, or to one of the trustees or treasurer thereof; and in default of such distress being found, or such other legal proceedings being ineffectual, then to be levied by distress and sale of the proper goods of the said party or of the said society, so neglecting or refusing as aforesaid, by other legal proceedings, together with such further costs and charges as aforesaid, returning the overplus, if any, to the owner: Provided always, that when the rules of any society provide for a reference to arbitrators of any matter in dispute, and it shall appear to any justice of the peace, on the complaint on oath of a member of any such society, or of any person claiming on account of such member, that application has been made to such society, or the trustees or treasurer, or other officer thereof, for the purpose of having any dispute so settled by arbitration, and that such application has not, within forty days, been complied with, or that the arbitrators have neglected or refused to make any award, it shall and may be lawful for such justice to summon the trustee, treasurer or other officer of the society, or any one of them against whom the complaint is made, and for any two justices to hear and determine the matter in dispute in the same manner as if the rules of the said society had directed that any matter in dispute, as aforesaid, should be decided by justices of the peace, anything herein contained to the contrary notwithstanding.

Justices will cause sum to be levied by distress.

How arbitration provision to be enforced against society.

22. If by the rules of any such society it is directed that any matter in dispute, as aforesaid, shall be decided by justices of the peace, it shall and may be lawful for any such justice, on complaint being made to him of any refusal or neglect to comply with the rules of such society by any member or officer thereof, to summon the person against whom such complaint shall be made, to appear at a time and place to be named in such summons, and upon his or her appearance, or in default thereof, upon due proof on oath of the service of such summons, it shall and may be lawful for any two justices to proceed to hear and determine the said complaint according to the rules of the said society; and in case the said justices shall adjudge any sum of money to be paid by such person against whom such complaint shall be made, and if such person shall not pay such sum of money to the person, and at the time specified by such justices, they shall proceed to enforce their award in the manner hereinbefore directed to be used in case of any neglect to comply with the decision of the arbitrators appointed under the authority of this Act.

If rules direct reference of disputes to Justices, course of proceedings to be followed.

Minors may become members, with consent of parents, &c.

23. A minor may become a member of any such society, and shall be empowered to execute all instruments, give all necessary acquittances, and enjoy all the privileges and be liable to all the responsibilities appertaining to members of matured age, notwithstanding his or her incapacity or disability in law to act for himself or herself: Provided always, that such minor be admitted into such society by and with the consent of his or her parents, masters or guardians.

Society may receive bonus for shares advanced and interest.

24. It shall and may be lawful to and for any such society to have and receive from any member or members thereof any sum or sums, by way of bonus, on any share or shares, for the privilege of receiving the same in advance prior to the same being realized, and also any interest for the share or shares so received on any part thereof, without being subject or liable on account thereof to any of the forfeitures or penalties imposed by any of the Act or Acts of the General Assembly of this Island.

Rules to provide for yearly general statements of account.

25. The rules of every such society shall provide that the trustees, treasurer or other principal officer thereof, shall once in every year, at least, prepare, or cause to be prepared, a general statement of the funds and effects of or belonging to such society, specifying in whose custody or possession the said funds or effects shall be then remaining, together with an account of all and every the various sums of money received and expended by or on account of the said society since the publication of the preceding periodical statement, (*? which statement*) shall be attested by two or more members of such society appointed auditors for that purpose, and shall be countersigned by the secretary of such society; and every member shall be entitled to receive from the said society a copy of such periodical statement on payment of such sum as the rules of such society may require, not exceeding the sum of sixpence.

Members to have copies.

Members admissible as witnesses in legal proceedings, notwithstanding interest.

26. On the trial of any action, indictment or other proceeding, respecting the property of any society enrolled under the authority of this Act, or in proceedings before any justice of the peace, any member of such society shall be a competent witness, and shall not be objected to on account of any interests he may have as such member in the result of such action, indictment or other proceeding.

Persons aggrieved by order of Justices may appeal to Supreme Court.

27. If any person shall consider himself or herself aggrieved by any sentence, order and adjudication made or given by any such justices under this Act, it shall and may be lawful for such person to appeal to the next sitting of the Supreme Court of Judicature to be holden in the county in which such justice or justices shall have jurisdiction: Provided always, that such appeal shall be appealed for, and everything relating thereto shall be had and done in like

manner as is appointed for appeals from the judgments of justices of the peace, under the provisions of the Act of the Assembly of this Island, passed in the nineteenth year of the reign of Her present Majesty Queen Victoria, chapter twenty-nine, intituled: "*An Act to facilitate the performance of the duties of Justices of the Peace with respect to summary convictions and orders*;" and in every such appeal the justices of the said Supreme Court are required to affirm, quash or otherwise vary such sentence, order or adjudication as may seem to them meet, and to enforce judgment in manner and form prescribed by the Act of the twenty-third year of the reign of Her present Majesty Queen Victoria, chapter sixteen, intituled: "*An Act relating to the recovery of small debts, and to repeal certain Acts therein mentioned*," or by any other Act for the recovery of small debts then in force.

Course of proceedings.

Act of 19 Vic., cap. 29.

28. All building societies hereafter to be established shall be entitled to the protection and benefit of this Act; but no such society shall be entitled thereto until their rules shall have been certified and deposited in the manner hereinbefore directed by this Act.

Future building societies to have benefit of Act, on rules being certified, &c.

29. Every person or persons who shall execute a mortgage, or further charge to the trustees of such society, shall also execute, under his or their hands and seals, a memorial thereof, which memorial shall specify the nature of the instrument, the names and additions of the parties thereto, the day and year when the same bear date, the description of the messuages, lands, tenements, hereditaments and premises comprised in and affected by such mortgage or further charge, the amount of money secured thereby, the amount of and the date when the last instalment is due and payable, whether such instrument contain a power of sale, and when such power of sale may be exercised, and which said memorial shall be in the form prescribed in the schedule to this Act annexed, marked (B), or as near thereto as circumstances permit, and which said memorial shall be witnessed by one or more witnesses: Provided always, that it shall not in any case be necessary for the wife of any mortgagee, who may have executed any such mortgage or further charge, to execute or join in such memorial.

Memorials of mortgages (form schedule B) to be executed by mortgagors.

Reference to schedule (B).

30. The memorial of such mortgage may be registered in the office of the registrar of deeds, at Charlottetown, upon the oath of the subscribing witness, or the acknowledgment of the parties who have executed the same; and the registrar shall, thereupon, and upon the back of each memorial, certify the proof or acknowledgment thereof in the form prescribed in the schedule to this Act annexed, marked (C): Provided always, that no memorial be registered by the registrar of deeds, as aforesaid, unless the mortgage or

May be registered.

Mortgage deed being produced to

and endorsed
by registrar.

Have benefit
of Registry
Acts.

further charge referred to in the said memorial, be produced to the said registrar of deeds, which said mortgage shall be endorsed across the face thereof by the said registrar, in the form of the schedule to this Act annexed, marked (D), and shall be delivered to the party producing the same; and such mortgage or further charge, of which a memorial shall have been so registered, shall in all respects be held to come within the provisions of the Act of the General Assembly, passed in the third year of His late Majesty King William the Fourth, chapter ten, intituled "*An Act to regulate the registry of deeds and instruments relating to the title of land,*" and all other Acts relating thereto or affecting the same, as though such mortgage, or further charge, had been duly entered and recorded under the provisions of the said last mentioned Act or Acts; and the registrar of deeds shall take and receive for the recording of such memorial and such certificates as aforesaid, the sum of one shilling.

Society not
authorized to
invest in Sav-
ings Bank.

31. Nothing herein contained shall authorize any building society, established under this Act, to invest its funds, or any part thereof, in any savings bank.

Interpreta-
tion clause.

32. Whenever in this Act, in describing or referring to any person, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and shall be applied to several persons or parties, as well as one person or party, and females as well as males; and the words mortgage and further charge, shall be held to apply to any instrument taken to secure the payment of any sum to such society, unless in all such cases there be something in the subject or context repugnant to such construction.

* * * * *

Proof of mort-
gages and
memorials.

Duty of regis-
trar thereon.

34. It shall be lawful for any witness to swear to the execution of any mortgage or further charge, or memorial, or for any mortgagee to acknowledge the execution of any mortgage, further charge, or memorial, before any commissioner appointed for the purpose of taking acknowledgments of deeds; and the registrar of deeds is hereby required to register such memorial, and to endorse such certificate upon every mortgage or further charge so sworn to or acknowledged before any such commissioner.

FORM OF AWARD.

Award.

We the major part of the arbitrators, duly appointed by the _____ society, established at _____, in the County of _____, do hereby award and order that A. B., (*specifying by name the party or the officer of the society*), do, on the _____ day of _____, pay to C. D, the sum of _____,

or we do hereby reinstate in or expel A. B. from said society
(as the case may be).

Dated this day of , one thousand eight
hundred and .

E. F.
G. H.

SCHEDULE (A).

Schedule (A.)

Know all men by these presents, that we, A. B., of Form of
treasurer (or trustee) of the society, established at trustee or
 , in the county of , and C. D., of treasurer's
and G. H., of , (as sureties on behalf of the said bond with
A. B.) are jointly and severally bound to J. K., the present sureties, for
keeper of the rolls of the Commission of the Peace for due execution
county of , in the sum of of office, duly
the said J. K., as such keeper of the rolls, or his successor, accounting,
keeper of the rolls of the said county for the time being, or &c.
his certain attorney, for which payment, well and truly to
be made, we jointly and severally bind ourselves, and each
of us by himself, our and each of our heirs, executors and
administrators, firmly by these presents, sealed with our
seals, dated the day of , in the year of our
Lord .

Whereas the above bounden A. B. hath been duly ap-
pointed treasurer (or trustee) of the society established as
aforesaid, and he, together with the above bounden C. D.
and G. H., as his sureties, have entered into the above
written bond, subject to the condition hereinafter contained;
now therefore, the condition of the above written bond is
such that if the said A. B. shall and do justly and faithfully
execute his office of treasurer (or trustee) of the said society
established as aforesaid, and shall and do render a just and
true account of all moneys received and paid by him, and
shall and do pay over all the moneys remaining in his hands,
and assign and transfer or deliver all securities and effects,
books, papers and property, of or belonging to the said
society in his hands or custody, to such person or persons as
the said society shall appoint, according to the rules of the
said society, together with the proper or legal receipts or
vouchers for such payments, and likewise shall and do in
all respects well and truly and faithfully perform and fulfil
his office of treasurer (or trustee, &c.) to the said society
according to the rules thereof, then the above written bond
shall be void and of no effect, otherwise shall be and remain
in full force and virtue.

Signed, sealed and delivered
in the presence of

A. B. [L.S.]
C. D. [L.S.]
G. H. [L.S.]

Schedule (B.)

SCHEDULE (B).

Form of memorial of mortgage.

Memorial to be registered pursuant to the statute, of a deed of mortgage (or further charge) between A. B. and C. D, his wife, of the one part, and E. F., G. H. and J. K., trustees of the Benefit Building Society (*designating the name of the society*), bearing date the day of one thousand eight hundred and by which the said mortgagee thereby conveyed all his right and title (or assigned all his leasehold interest, or further charge, all his right and title) in and to all that tract, piece and parcel of land, situate to secure the payment of the sum of pounds, the last instalment of which is pounds, and will be due on the day of one thousand eight hundred and and which said mortgage (or further charge) contains a power of sale which may be exercised months after default of any of the conditions in the said mortgage, by the mortgagee.

Schedule (C)

SCHEDULE (C).

Certificate of registration of memorial.

I hereby certify that the within memorial was duly registered on day of , in the year of our Lord one thousand eight hundred and at the hour of of the clock, upon the oath of (or upon the acknowledgment of the within named)

H. Y., Registrar.

Schedule (D)

SCHEDULE (D).

Registrar's certificate of proof of mortgage.

I hereby certify that this mortgage was duly proved pursuant to the provisions of the "*Benefit Building Society Act*," on day of , in the year of our Lord one thousand eight hundred and , at the hour of of the clock, upon the oath of (or upon the acknowledgment of the within named)

H. Y., Registrar.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



31 VIC., CHAP. 14.

An Act to amend the Act for the due observance of the Lord's Day. 20 Geo. III.,
cap. 3.

[*Passed 24th April, 1868.*]

WHEREAS the first section of the twentieth George the Preamble.
Third, chapter three, intituled "*An Act for the due observance of the Lord's Day.*" contains a provision permitting the sale of fresh fish before the hour of nine o'clock in the morning and after five o'clock in the afternoon, on the Lord's Day, and it is deemed expedient to repeal such provision: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, as follows:—

1. From and after the passing of this Act, it shall not be lawful for any person or persons whomsoever, in this Island, to sell or vend fish of any kind or description at any hour on the Lord's Day, and any person who shall so sell fish on the Lord's Day shall be subject to the same penalty as is imposed by the second section of the said recited Act for the offences therein mentioned, and the said penalty shall be recovered and applied as in the said second section mentioned and directed.

Sale of fish on the Lord's day prohibited under penalty as imposed by 2d section of 20 Geo. III., cap. 3.

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ACTS
OF
PRINCE EDWARD ISLAND
SUBSEQUENT TO THE REVISED STATUTES.

32 VIC., CHAP. 11.

An Act to provide for the service of Divorce Process on
absent parties.

[*Passed 19th April, 1869.*]

Preamble.

Citations in
cases of
divorce may
be served on
parties
abroad.

WHEREAS there is no provision made for the service of citations or process in suits for divorce, where the party proceeded against is not living within the jurisdiction of this colony : Be it therefore enacted by the Administrator of the Government, Council and Assembly that, in all cases when it may hereafter become necessary personally to serve a citation, writ or process, of any kind, in any cause for divorce, pending in the Court of Divorce, in this colony, such process may be served on the party or parties required to answer thereto in whatsoever country or province he or she may reside, or be found.

Proceedings
with respect
to service of
citations, &c.,
to be in ac-
cordance with
Act 30 Vict.,
cap. 18, in re-
lation to Su-
preme Court.

2. The service of the citation or writ, or other process or proceeding necessary to be issued, whether as against a British subject or a foreigner, and the affidavit or affidavits in proof of such service, and the powers of the Divorce Court and the judge thereof, to make any order or orders, or give any directions, touching or concerning the sufficiency of such service, and the enabling the party to proceed to hearing, sentence or judgment, or to any order against any such absent party, shall be, as nearly as circumstances will permit, in accordance with the practice authorized and prescribed in the Act passed in the thirtieth year of the reign of Her present Majesty, chapter eighteen, intituled : "*An Act relating to practice and pleading in the Supreme Court.*"



32 VIC., CHAP. 34.

An Act to enable the Government to secure Telegraphic Communication.

[*Passed, 19th April, 1869.*]

BE it enacted by the Administrator of the Government, Council and Assembly, as follows:—

1. If the New York, Newfoundland and London Telegraph Company shall, on or before the first day of July next, lay down, in proper working order, a new submarine telegraphic cable across the Straits of Northumberland, so as to connect this Island with the Provinces of New Brunswick and Nova Scotia and the continent of America generally, that is to say, at or near Capes Traverse and Tormentine, respectively, or at some convenient points on each side of the said straits, and shall open offices and provide operators at Capes Traverse and Tormentine, or some other convenient point on each side of the straits, to the satisfaction and approval of the Government of this Island, then so long after the completion of such telegraphic communication and connection as before mentioned as the said New York, Newfoundland and London Telegraph Company shall maintain a regular telegraphic communication between this Island and the Provinces of New Brunswick and Nova Scotia and the continent of America generally, and shall likewise, during the same period, at the costs and charges of the said company, build, erect and maintain telegraph offices and stations at either end of the electric cable connecting this Island with the Provinces of New Brunswick and Nova Scotia and the continent of America generally, that is to say, at Capes Traverse and Tormentine, respectively, and shall likewise maintain and provide properly qualified operators at the said stations for the purpose of transmitting intelligence from and to this Island, and to the post offices in Charlottetown and Summerside, respectively, at the same rates and charges, as regards the transmission of inland messages between one office and another in Prince Edward Island, as heretofore charged by the company, and at a rate not exceeding fifty cents additional on former charges on messages passing out and into this Island through the submarine cable, and in the ordinary proportion for any additional number of words in each message, and, also, in the event of any of the

Telegraph Company to establish telegraphic communication between this Island, the Provinces and America.

Company to furnish wires, &c., for land line to Cascumpec or Alberton.

Government to pay Company £600 in lieu of any former contract.

Rights, privileges and monopolies of company.

17 Vic. cap. 4.

If company fail to maintain such telegraphic communication.

Lt. Governor in Council, may contract with any other company.

people or the Government of this Island erecting good and sufficient posts, free of costs to the said company, for an extension of the land line to Cascumpec or Alberton, the said company do furnish the wires and insulators therefor and perfect telegraphic communication to Cascumpec or Alberton, as the case may be, and maintain said lines in proper working order, and also keep up and maintain telegraphic offices and stations and operators at Charlottetown, Summerside and Cascumpec or Alberton for the transmission of messages, there shall be paid to the said company, from the public Treasury of this Island, the sum of six hundred pounds of lawful current money of the said Island, in lieu of any former contract, by half-yearly payments, and for such sum the Lieutenant Governor or other Administrator of the Government of this Island, for the time being, shall draw warrants in favor of the company on the treasurer of this Island in the usual manner.

2. All the rights, privileges, profits and monopolies, with respect to extending, erecting, maintaining and building the said lines of telegraphic communication within this Island, or in connection with it externally, or of erecting, maintaining and building any other telegraphic line or communication in any other part of this Island, or between any two or more points therein, or between any point or points therein and any other point outside of this Island, and all other rights, privileges, profits and monopolies given to or conferred upon the said company, by the Act of the General Assembly of this Island, of the seventeenth Victoria, chapter four, are hereby confirmed, restored and given to the said company.

3. Any other person or persons, besides the said company, who, under the sanction of the Lieutenant Governor, or other Administrator of the Government of this Island, in Council, shall undertake or be employed or engaged in the erecting telegraphic posts, as in a former section of this Act mentioned, for an extension of the land telegraphic lines or communication to Alberton or Cascumpec, or to any other point or points in this Island, shall, in so doing, have all the rights, protections and privileges given to and enjoyed by the said company under the provisions of the said Act of the seventeenth Victoria, chapter four.

4. In case of the failure of the said company to perform, keep up and maintain the telegraphic communications aforesaid, it shall be lawful for the Lieutenant Governor or other Administrator of the Government, for the time being, in Council, to contract with any person or persons willing to become bound to keep up or maintain the same, or such part thereof as the said Lieutenant Governor, or other Administrator of the Government, in Council, shall require to

be contracted for, and, in such case, the privileges and monopolies hereby granted to the said company shall have no force or operation as against any such other person or persons who may contract or become bound as aforesaid

5. Nothing in this Act contained shall affect, or be construed to affect or interfere with, any rights or privileges granted to "The Gulf Express and Telegraph Company," under and by virtue of the Act of the twenty-fourth Victoria, chapter four, except in so far as relates to the rights or privileges granted to the New York, Newfoundland and London Telegraph Company, under and by virtue of the Act of the seventeenth Victoria, chapter four, and which are referred to and recognized in the tenth section of the said Gulf Express Act, of the twenty-fourth Victoria, chapter four, and are hereby again confirmed, restored and given to the said New York, Newfoundland and London Telegraph Company by the provisions of this Act, and save and except in so far as relates to the provisions respecting the erection of telegraphic posts for an extension of the land telegraphic lines to Alberton or Cascumpec, contained in this Act.

This Act not to interfere with rights of Gulf Express and Telegraph Company, under 24 Vic., cap. 4. Except in so far as relates to rights of New York, Newfoundland and London Telegraph Company, under 17 Vic., cap. 4. And except as to erection of land line to Alberton.

6. In order to enable the Government to carry out in good faith any arrangement respecting telegraphic communication already made or negotiated, or which may hereafter be made or negotiated, with the said New York, Newfoundland and London Telegraph Company, or any other company, person or person, in connection with or within this Island, or any point or points therein, whether hereinbefore named and specified or not, it shall be lawful for the Lieutenant Governor, with the advice of the Executive Council, from time to time, if it appear advisable, to alter, change, relax or dispense with and again, if need be, to require to be performed any of the services in respect of telegraphic communication required to be performed by the first section of this Act, and also, from time to time, if need be, to make such further or other arrangements respecting telegraphic communication as shall be found necessary and advisable, and to apply the sum of money hereby granted to defray the costs of such altered arrangements, so far as the same can extend or provide for the same.

Lt. Governor in Council, may dispense with services required by 1st section of this Act, &c.

And make other arrangements, &c.



33 VIC., CHAP. 7.

An Act to procure a Steamboat for the Georgetown Ferry.

[Passed 19th April 1870.]

Preamble.

WHEREAS it is deemed necessary for the public accommodation, that a steamboat should be placed on the Georgetown ferry: Be it enacted by the Administrator of the Government, Council and Assembly, as follows:—

Lt. Governor,
&c., may let
Georgetown
ferry for 7
years.

1. From and after the passing of this Act, it shall be lawful for the present, or any other Administrator of the Government of this Island, in Council, for the time being, when occasion may require to let or grant, for any space of time not exceeding seven years, from the time a steamboat shall be placed on the said ferry, as hereafter mentioned, the exclusive right to the said ferry and the premises connected therewith, to any person or persons to convey passengers, horses, carts, waggons, cattle and luggage, and all other things across the said ferry, by means of a good and sufficient steamboat, of not less than fifteen actual horse power, besides providing a sufficient number of good and efficient keel or flat bottomed boats, for the conveyance of passengers, horses, carts, waggons, cattle, and things across the said ferry, as aforesaid.

To any person
who will put
a steamer
thereon.

Ferry to be let
by tender.

2. The said ferry shall be let by tender, and all tenders shall be called for at the office of the Colonial Secretary, by advertisement in the *Royal Gazette* newspaper of this Island; and such tender may be called for during the existence of any present or future lease of such ferry.

Lessee to be
subject to
regulations
made by
Lieut. Govern-
or in Coun-
cil.

3. The lessee of said ferry shall be subject to such rules and regulations as shall be made, fixed and determined, respecting such ferry, by the Lieutenant Governor or Administrator of the Government, for the time being, in Council, and to all such covenants, agreements, terms, contracts, provisions and stipulations, as shall be contained in the license or contract granted to or entered into by him, with respect to the said ferry, and the Act of the third William the Fourth, chapter the eighth, intituled: "*An Act to repeal two certain Acts therein mentioned, for licensing and regulating ferries, and to make other provisions in lieu thereof,*" shall be binding on the said lessee of the said ferry, licensed under

And to Act of
3d William
IV., cap. 8.

the provisions of this Act, who, as well as all persons and servants acting under him in the management of the said ferry, shall be subject to all the fines, forfeitures and penalties, and the provisions of the said Act for enforcing such fines, forfeitures and penalties, as in the said recited Act mentioned and directed.

Lessee subject to fines, &c., in 2d William IV., cap. 8.

4. The lessee of such ferry shall become bound with two good and sufficient securities, to be approved of by the Lieutenant Governor or the Administrator of the Government, in Council, for the due and faithful performance of his contract.

Lessee to give bonds for performance of contract.

5. No lease of the said ferry shall be given, or tender therefor accepted, wherein the rates of ferriage proposed shall be higher than the following: Provided always, that the Lieutenant Governor or Administrator of the Government, in Council, may accept any tender at lower rates than the rates herein specified: Single passengers each, three-pence, horses each, five-pence, wheel carriages each, five-pence, horned cattle each, five-pence, hogs each, two-pence, sheep each, two-pence, produce and other matter measured by the bushel, one half-penny per bushel, heavy weights of every description per hundred weight, one penny half-penny.

Rates of ferriage.

6. Any lease, license or contract, shall be and become void and forfeited on breach of any of the rules or regulations thereby required to be observed or performed by or on the part of the lessee, licensee, or contractor, when and so soon as a notice in writing, signed by the Lieutenant Governor or Administrator of the Government, declaring the same to be forfeited for such breach, shall have been served on such lessee, licensee or contractor, or inserted twice in the *Royal Gazette* newspaper, published in this Island.

Lease of ferry to become void for breach of regulations.

7. The Queen's Wharf at Georgetown, and the public wharf at the south end of Georgetown Ferry, known as Peters' Wharf, shall, unless otherwise ordered by the Lieutenant Governor in Council, be used by the said licensee for the accommodation of such steamer and other boats, used by him for the purposes of the said contract, or of this Act, subject to the control or direction of the wharfinger of the said wharf.

Queen's wharf, Georgetown, and Peter's wharf, to be used by licensee.

8. The Lieutenant Governor or other Administrator of the Government, for the time being, in Council, is hereby authorized and empowered to cause to be issued out of the public treasury of this Island, by warrant or warrants, in the usual manner, a sum not exceeding two hundred pounds annually, to the licensee or lessee of the said Georgetown ferry, who shall ply a steamer thereon according to the intent and mean-

Licensee, how paid.

ing of this Act, and of this license and contract as aforesaid, and such annual subsidy shall be paid for the term of five years, from the time such steamer shall be put on said ferry, and no longer.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



34 VIC., CHAP. 13.

An Act to encourage steam communication between Charlottetown and Mount Stewart Bridge on the Hillsborough River.

[*Passed 17th April, 1871.*]

BE it enacted by the Lieutenant Governor, Council and Assembly, that it shall and may be lawful for the Lieutenant Governor for the time being, in Council, to let or grant for a space of time not exceeding ten years from the time a steamer shall be placed on the said river, the right of running one or more good and sufficient steamboat or steamboats for the use and accommodation of the public, between Charlottetown and Mount Stewart Bridge on the said river, touching at the respective wharves in passing up and down on each side of the said river; the said steamboat or steamboats to be bound to run up and down, for and with passengers, their luggage, goods, agricultural produce, and other commodities, in the morning and evening of each of the market days in said town, according as shall be so agreed upon with the Government, from the opening of the navigation until the close thereof, in each and every year during the continuance of such contract, and at such reasonable rates of fares or charges for the conveyance of passengers, luggage and freight as shall be agreed upon between the Executive Government and the owner or owners of such steamer or steamers by the contract to be entered into in that behalf.

Lt. Governor, &c., may grant for 10 years right of running steamboats between Charlottetown and Mount Stewart Bridge, &c.

Rates of fares of steamboats.

2. Before any contract shall be made or entered into by the Government, or any other person on behalf of the Government of this Island, with any party or parties respecting the running or establishment of any such steamboat or steamboats as aforesaid, under this Act, it shall be the duty of the Government to notify the public by advertisement in some one or more of the newspapers published in this Island, that the privilege of running the said steamboat or steamboats in manner by this Act provided will be open to public competition for such time as in such advertisement may, in that behalf, be limited or expressed; and it shall be the duty of the Lieutenant Governor, or other Administrator of the Government, in Council, to contract and agree with such person or persons as may be willing to accept and

Advertisements to be published for contracts.

Contract to be entered into.

enter into the said contract upon the best and most favorable terms for the interests of the public, and in such contracts shall and may be contained and set forth all such clauses, stipulations and agreements as may be deemed by the Executive Government necessary or desirable for the security of the passengers and property to be conveyed in and on board of such steamboat or steamboats, and to ensure regularity in the running of such steamboat or steamboats, or which may in any way or manner tend to the conveyance or accommodation of the public.

Power to be reserved in contracts to carry mails.

3. In entering into any such contract the Lieutenant Governor, or other Administrator of the Government, in Council, shall have power and authority to bind the party or parties agreeing to run such steamboat or steamboats to convey any mail or mails on board the same to or from any place or places within the several routes of such steamboat or steamboats, when and as often as may be required by any regulation of the Post Office Department, or any order of the Government of this Island, or of the Postmaster General in that behalf.

Lt. Governor, &c., may pay a sum not exceeding £200 a year to contractor.

4. The Lieutenant Governor, or other Administrator of the Government for the time being, in Council, is hereby authorized and empowered to cause to be issued out of the public treasury of this Island by warrant or warrants, in the usual manner, a sum not exceeding two hundred pounds, annually, to the contractor for said steamboat or steamboats, who shall ply such steamboat or steamboats according to the intent and meaning of this Act for such term of ten years.

Bond required for performance of contracts.

5. The Lieutenant Governor in Council shall cause the party contracting for the service of such steamboat or steamboats to enter into a bond, with two sufficient sureties for the due performance of such contract as may be entered into; and in case of non-compliance with the conditions of such contract, the Lieutenant Governor in Council shall have power to determine the same.

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34 VIC., CHAP. 17.

An Act relating to certain Grants by the Crown.

[*Passed 17th April, 1871.*]

BE it enacted by the Lieutenant Governor, Council and Assembly, as follows:—

1. The grantee of any portion of the shore or bed of any bay, river, or inland water of this Island held under grant made by the Crown and described in such grant as having the channel of the bay or water upon the shore and bed of which the same may be situate for one of the boundaries thereof, may apply to the Lieutenant Governor, in Council, to have the position of such channel determined and defined.

Grantee of shore, &c., bounded by channel, may apply to Lieut. Governor or to have channel defined.

2. On application made by any such grantee, the Lieutenant Governor, in Council, shall direct the Surveyor General to make, or cause to be made, a survey of the locality described in the grant under which such applicant may hold, for the purpose of ascertaining the position of the channel in front of the same, and the Surveyor General shall send to the Lieutenant Governor in Council a report of such survey, accompanied by a plan showing the position of such channel so ascertained; and should the report of such survey be approved by the Lieutenant Governor in Council, the same, together with the plan of the locality surveyed, shall be deposited in the office of the keeper of plans of this Island, and the boundary defined in the grant of the locality so surveyed as the channel of the bay or water upon the shore and bed of which the same may be situate, shall be held to be in the position shown upon such plan; and a copy of such plan, certified by the keeper of plans, shall be conclusive evidence to establish such boundary.

Lt. Governor to order Surveyor General to survey locality in grant to ascertain position of channel.

Surveyor General to send Lt. Governor a report of such survey.

Report and plan of locality to be deposited with the keeper of plans.

Certified copy of plan to be evidence, &c.

3. The cost of all surveys which may be made under the authority of this Act shall be paid by the person or persons who may require the same.

Cost of survey to be paid by applicant.

4. In all cases in which the Surveyor General shall be directed to make any such survey, he shall, before proceeding therewith, require from the applicant for such survey a deposit of money sufficient in his opinion to defray the cost thereof.

Surveyor General to require from applicant sum sufficient to meet cost of survey.

Meaning of
the word
"shore" in
grants, &c.

5. The word "shore," in all grants by the Crown heretofore made of water lots in Charlottetown, Georgetown, Princetown and Summerside, and in all grants of the shore or bed of any bay, river or inland water, made under the authority of the Act passed in the twenty-fifth year of the reign of Her Majesty Queen Victoria, intituled, "*An Act to authorize grants of the shores of this Island,*" shall be taken to include all that portion of the shore and bed of the water extending from the channel to ordinary high water mark.

Meaning of
the word
"shores" as
used in 25
Vic., cap. 19.

6. And the word "shores" in the said last recited Act shall be taken to include all that portion of the shore and bed of any river, bay or inland water of this Island lying between the channel thereof and ordinary high water mark.

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34 VIC., CHAP. 22.

An Act to amend the Act to procure a steamboat for the
Georgetown Ferry.

[*Passed 17th April, 1871.*]

BE it enacted by the Lieutenant Governor, Council and
Assembly :—

1. That it shall and may be lawful for the Lieutenant Governor for the time being, in Council, to let or grant for a space of time not exceeding ten years from the time a steamboat shall be placed on the said ferry, the exclusive right to the said ferry, and the premises connected therewith, instead of for the space of seven years as provided in and by the Act of the thirty-third Victoria, chapter seven, intituled, "*An Act to procure a steamboat for the Georgetown Ferry,*" anything in the said recited Act to the contrary notwithstanding.

Lt. Govern-
or, &c., may
grant for 10
years exclu-
sive right to
Georgetown
ferry.

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Excellent Majesty.



ACTS

OF THE

PARLIAMENT OF CANADA.

31 VIC., CHAP. 13.

An Act respecting the construction of "The Intercolonial Railway"

[Assented to 21st December, 1867.]

Preamble.

WHEREAS the Provinces of Canada, Nova Scotia and New Brunswick joined in a declaration that the construction of the Intercolonial Railway is essential to the consolidation of the Union of British North America, and to the assent thereto of Nova Scotia and New Brunswick; and consequently agreed that provision should be made for its immediate construction by the Government of the Dominion of Canada; and whereas in order to give effect to that agreement, it was declared by the one hundred and forty-fifth section of the Imperial Act, known as "*The British North America Act, 1867*," that it should be the duty of the Government and Parliament of Canada, to provide for the commencement within six months after the Union, of a railway connecting the River Saint Lawrence with the city of Halifax, in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed; and whereas the Imperial Act known as "*The Canada Railway Loan Act, 1867*," authorizes the guarantee by the Imperial Government of the interest on a loan to be raised by Canada towards the construction of the Intercolonial Railway, connecting the port of Rivière du Loup, in the Province of Quebec, with the line of railway leading from the city of Halifax, in the Province of Nova Scotia, at or near the town of Truro, on certain conditions therein mentioned: Therefore, in fulfilment of the duty imposed on the Government and Parliament of Canada as aforesaid, and in order to the raising of the said loan, so to be guaranteed as aforesaid, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. There shall be a railway constructed, connecting the port of Rivière du Loup before mentioned, with the line of railway leading from the said city of Halifax, at or near the said town of Truro, and such railway shall be styled and known as "The Intercolonial Railway."

Termini of
Railway.

Its name.

2. The said Railway shall be a public work belonging to the Dominion of Canada; and shall be made with a gauge of five feet six inches, and on such grades, in such places, in such manner, with such materials and on such specifications as the Governor in Council shall determine and appoint as best adapted to the general interests of the Dominion.

To be a public
work.

Gauge and
grades, &c.

*

*

*

*

*

4. The Governor shall and may appoint a Chief Engineer, to hold office during pleasure, who, under the instructions he may receive from the Commissioners, shall have the general superintendence of the works to be constructed under this Act.

Appointment
of chief
engineer.

5. The Commissioners shall and may appoint and employ a secretary, such engineers (under the Chief Engineer) and such surveyors and other officers, and also such agents, servants and workmen as in their discretion they may deem necessary and proper for the execution of the powers and duties vested in the said Commissioners by virtue of this Act.

Appointment
of other
officers, &c.

6. The Commissioners shall have full power and authority by themselves, their engineers, agents, workmen, servants, contractors and the servants and workmen of such contractors—

Powers of
Commission-
ers.

1. To explore and survey the country lying between Rivière du Loup and Truro;

To explore.

2. And for that purpose to enter into and upon any public lands or the lands of any corporation or person whatsoever;

To enter on
lands.

3. To make surveys, examinations or other arrangements on such lands necessary for fixing the site of the railway, and to set out and ascertain such parts of the lands as shall be necessary and proper for the railway;

To fix the site
of road.

4. And to fell or remove any trees standing in any woods, lands or forests where the railway shall pass, to the distance of four rods from either side thereof.

To fell tim-
ber.

7. The Commissioners are further authorized to enter upon and take possession of any lands required for the purposes of the railway, and they shall lay off the same by metes and bounds, and deposit of record a description and plan thereof in the office for the registry of deeds for the county or registration division in which the lands are situate, and

To take pos-
session of
lands.

such deposit shall operate as a dedication to the public of such lands, which shall be thereupon vested in the Crown.

To use adjacent lands.

8. The Commissioners or contractors may enter with workmen, carts, carriages and horses, upon any lands, and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the line of railway or works connected therewith, or for the purpose of digging up, quarrying and carrying away earth, stones, gravel, or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom for the making and preparing of such railway.

To perform all necessary works.

9. It shall be lawful for the Commissioners to make or construct in, upon, across, under or over any land, streets, hills, valleys, roads, railways or tramroads, canals, rivers, brooks, streams, lakes or other waters, such temporary or permanent inclined planes, embankments, cuttings, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches or other works as they may think proper.

May alter the courses of rivers.

10. They may alter the course of any river, canal, brook, stream or water course, and may divert or alter as well temporarily as permanently the course of any such rivers, streams of water, roads, streets or ways, or raise or sink the level of the same, in order to carry them over or under, on the level of, or by the side of, the railway, as they may think proper.

May drain into adjacent lands.

11. They shall have power to make conduits or drains into, through or under any lands adjoining the railway, for the purpose of conveying water from or to the railway.

And enjoy powers conferred by any General Railway Act.

12. The Commissioners shall have all such other powers (not inconsistent with this Act) as may be conferred upon railway companies by any Act which may be passed for the consolidation and regulation of the general clauses relating to railways.

Powers of Commissioners with respect to purchase of lands and of parties to convey.

13. The Commissioners may contract and agree with all persons, corporations, guardians, tutors, curators and trustees whatsoever, not only for themselves, their heirs, successors and assigns, but also for and on the behalf of those whom they represent, whether infants, absentees, lunatics, married women, or other persons otherwise incapable of contracting, for the purchase of any land or other property necessary for the construction, maintenance and use of the railway, at such prices as may be agreed upon; and may also contract and agree with all such persons and corporations, on the amount of compensation to be paid for any damages sustained by them by reason of anything done under and by authority of this Act.

14. Whenever the Commissioners and any such party or corporation fail to agree as to such value or compensation as aforesaid, the claim for the same shall, on the request of the claimant, be referred to the award of the official arbitrators, to be appointed according to the provisions of any Act that may be passed respecting the public works of Canada, and the same proceedings shall be had before the said arbitrators, as if the claim were one made under that Act.

Arbitration
in case of dif-
ference as to
value of
lands.

15. The arbitrators, in deciding on such value or compensation are authorized and required to take into consideration the increased value that would be given to any lands or grounds through or over which the railway will pass, by reason of the passage of the railway through or over the same and to set off the increased value that will attach to the said lands or grounds against the inconvenience, loss or damage that might be suffered or sustained by reason of Commissioners taking possession or using the said lands or grounds as aforesaid.

Arbitrators to
consider in-
creased value
given to prop-
erty.

16. The Commissioners shall build such railway by tender and contract after the plans and specifications therefor shall have been duly advertised, and they shall accept the tenders of such contractors as shall appear to them to be possessed of sufficient skill, experience and resources to carry on the work, or such portions thereof as they may contract for: Provided always, that the Commissioners shall not be obliged to accept the lowest tender, in case they should deem it for the public interest not to do so: Provided also, that no contract under this section involving an expense of ten thousand dollars or upwards shall be concluded by the Commissioners until sanctioned by the Governor in Council.

Duties of
Commission-
ers with
respect to ten-
ders and con-
tracts.

Proviso: as
to contracts
of \$10,000 or
more.

17. The contracts to be so entered into shall be guarded by such securities, and contain such provisions for retaining a proportion of the contract moneys, to be held as a reserve fund, for such periods of time, and on such conditions as may appear to be necessary for the protection of the public, and for securing the due performance of the contract.

Securities for
fulfilment of
contract.

18. No money shall be paid to any contractor until the chief engineer shall have certified that the work, for or on account of which the same shall be claimed, has been duly executed, nor until such certificate shall have been approved of by the Commissioners.

Chief engi-
neer to certify
to work done
before pay-
ment.

19. No member of Parliament shall hold, or be appointed to, any office of emolument under the Commissioners, or be a contractor, or party to any contract with the Commissioners for the construction of the railway or any part thereof.

Disqualifica-
tion of mem-
bers of Parlia-
ment as
officers or
contractors.

20. The Governor, or any person or persons appointed by him, shall have power to inspect all contracts and proceed-

Inspection of
contracts,

&c., by Governor.

ings of the Commissioners, and to examine their accounts at all times.

Salaries and compensation, how fixed.

21. The Governor in Council shall, in the first instance, fix the rate of salary or compensation for the Commissioners and the chief engineer, and shall approve of all other salaries to be awarded by the Commissioners, subject in all cases to the revision and confirmation of Parliament at its first session thereafter.

Power to suspend the works.

22. The Governor in Council shall have the power, at any time to suspend the progress of the work until the then next session of Parliament.

Provision for meeting expenditure.

23. The Commissioners shall from time to time be paid, on their requisition, by the Receiver General, all moneys that may be required for the purposes of this Act, in such manner, at such times and in such sums as may, from time to time, be ordered by the Governor in Council.

Quarterly accounts by Commissioners.

24. The Commissioners shall furnish quarterly accounts (or oftener if required by the Governor in Council) to the Receiver General, of all expenditures and liabilities under this Act.

Working of completed portions.

25. Whenever the railway, or any portion thereof, shall be completed, it shall be lawful for the Governor in Council to make suitable arrangements for the working of the same; but such arrangements shall not be for any longer period than the end of the session of Parliament next after the making of the same.

Carriage of H. M. naval and military forces.

26. Her Majesty's naval or military forces, and all artillery, ammunition, baggage, provisions, or other stores for their use, and all officers and others travelling on Her Majesty's naval, military or other service and their baggage and stores, shall at all times, when thereunto required by one of Her Majesty's principal Secretaries of State, or by the Commander of Her Majesty's forces in Canada, or by the chief naval officer on the North American Station, be carried on the railway on such terms and conditions, and under such regulations as the Governor in Council shall from time to time make, or as shall be agreed upon between the Government of Canada and one of Her Majesty's principal Secretaries of State.

Loan (with Imperial guarantee) for construction of road.

27. For the purpose of constructing the said railway there shall be raised by loan and appropriated a sum not exceeding three million pounds sterling, bearing interest at a rate not exceeding four per centum per annum, upon the guarantee of the payment of the interest of such loan by the Commissioners of Her Majesty's Treasury, under the provisions of "*The Canada Railway Loan Act, 1867.*"

28. The Consolidated Revenue Fund of Canada shall be and is hereby charged with the principal and interest of the loan, immediately after the charges specifically made thereon by sections one hundred and three, one hundred and four and one hundred and five, of "*The British North America Act, 1867.*"

Consolidated
Revenue
Fund
charged.

29. A sinking fund is hereby provided for the payment by the Government of Canada of an annual sum at the rate of one per centum per annum on the entire amount of principal money whereon interest is guaranteed, which shall be remitted the Commissioners of Her Majesty's Treasury, by equal half-yearly payments in such manner as they may from time to time direct, and shall be invested and accumulated under their direction in the name of four trustees, nominated from time to time, two by the Commissioners of Her Majesty's Treasury, and two by the Government of Canada; and such sinking fund and its accumulations shall be invested in securities of the Provinces of Canada, Nova Scotia and New Brunswick, issued before the Union of Canada or, at the option of the Government of Canada, in such other securities as may be proposed by that Government and approved by the Commissioners of Her Majesty's Treasury, and shall be applied under the direction of the Commissioners of Her Majesty's Treasury in discharge of the principal money whereon interest is guaranteed; and the Consolidated Revenue Fund of Canada shall be and the same is hereby charged with the amount of the said sinking fund immediately after the principal and interest of the loan.

Sinking Fund
provided for.

Its invest-
ment.

Its applica-
tion.

Amount
charged on
Con. Rev.
Fund.

30. The Consolidated Revenue Fund of Canada shall be, and the same is hereby charged with any sum issued out of the Consolidated Fund of the United Kingdom, under "*The Canada Railway Loan Act, 1867,*" with interest thereon, at the rate of five per centum per annum, immediately after the sinking fund.

Further
charge on
Consolidated
Revenue
Fund.

31. The sinking fund shall be continued until all principal and interest of the loan, and all sums issued out of the Consolidated Fund of the United Kingdom, under "*The Canada Railway Loan Act, 1867,*" and all interest thereon are fully discharged, or until the sinking fund and its accumulations are adequate to discharge so much thereof as remains undischarged.

Continuance
of Sinking
Fund.

32. The Government of Canada is hereby empowered to raise, by loan, for the completion of the railway, a further sum not exceeding one million pounds sterling (without guarantee by the Commissioners of Her Majesty's Treasury), and the Consolidated Revenue Fund of Canada shall be, and the same is hereby charged with the money so raised

Loan (with-
out Imperial
guarantee).

How charged.

and interest, immediately after the charges made thereon in pursuance of the five next preceding sections of this Act.

Issue of debentures for effecting guaranteed loan.

33. For the purpose of effecting the loan, the interest of which is to be guaranteed in manner hereinbefore mentioned, it shall be lawful for the Governor to authorize debentures to the amount of three million pounds sterling, to be issued in such form, and payable at such period, and for such sums, and at such rate of interest as shall be most convenient, and as shall be in accordance with the terms of "*The Canada Railway Loan Act, 1867.*"

How the loan secondly mentioned may be effected.

34. For the purpose of effecting the loan of one million pounds sterling mentioned in the thirty-second section of this Act, or any part thereof, it shall be lawful for the Governor in Council to authorize the issue of debentures either in currency or sterling money, in such form, bearing such rate of interest, not exceeding six per centum per annum, in such sums and payable at such periods as may be most convenient—or it shall be lawful for the Governor in Council to issue permanent Canadian stock or terminable annuities, or exchequer bills, or securities in any other form that may be most convenient, and as shall be in accordance with "*The Canada Railway Loan Act, 1867.*"

Separate accounts of funds raised under this Act.

Advances out of other funds and their repayment.

35. Separate accounts of the moneys raised under this Act shall be kept by the Receiver General, and all sums required for the carrying out of this Act, shall be paid out of such moneys, and not out of any other fund, except that the Governor in Council may authorize the advance, out of the Consolidated Revenue Fund, of such sums as it may be necessary to expend for the purposes aforesaid, before the said loans can be raised, such sums to be repaid to the Consolidated Revenue Fund out of the loans.

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31 VIC., CHAP. 77.

An Act to enable Her Majesty to provide for the Widow and Children of the late Honorable Thomas D'Arcy McGee.

[Assented to 22nd May, 1868.]

MOST GRACIOUS SOVEREIGN :

WE, Your Majesty's dutiful and loyal subjects, the Com-
mons of Canada in Parliament assembled, having
taken into consideration the message of His Excellency the
Governor General, bearing date the fourteenth day of April,
in the year of Our Lord, one thousand eight hundred and
sixty-eight, wherein His Excellency is pleased to state, that
being deeply impressed with the severe loss which the
country has sustained, in consequence of the murder of the
Honorable Thomas D'Arcy McGee, and being desirous of
marking his sense of the public and private virtues of Mr.
McGee, and of affording relief and assistance to his afflicted
family, His Excellency recommends to the House of Com-
mons to enable him to make such provision for the widow
and family of the Honorable Thomas D'Arcy McGee, as to
the liberality of Parliament may seem proper, and having
resolved to grant to Your Majesty the sums hereinafter men-
tioned, to enable Your Majesty to make the provision recom-
mended by His Excellency's message, do most humbly
beseech Your Majesty that it may be enacted, and be it
enacted, by the Queen's Most Excellent Majesty, by and
with the advice and consent of the Senate and House of
Commons of Canada, that—

Preamble.

I. An annuity or yearly sum of twelve hundred dollars
of lawful money of Canada, shall be issued and payable out
of and charged and chargeable upon the Consolidated
Revenue Fund of Canada, free and clear of all taxes and
deductions to Mary Theresa McGee, the widow of the said
Thomas D'Arcy McGee, for and during the natural life of
the said Mary Theresa McGee, which annuity shall com-
mence from the seventh day of April, in the year of our
Lord, one thousand eight hundred and sixty-eight, and the
first payment on account of the same shall be computed
from the seventh day of April to the thirtieth day of June,
one thousand eight hundred and sixty-eight, and from

Annuity to
the widow of
the Hon. T.
D. McGee.

thence the said annuity shall be paid by half yearly payments, on the first day of January and the first day of July in each year, and a rateable payment of the said annuity to be computed from the last half yearly payment before the death, until the day of the death of the said Mary Theresa McGee, shall on such death be paid to her executors, administrators or assigns.

Sum granted
for the child-
ren of said
T. D. McGee.

2. The sum of eight thousand dollars of lawful money of Canada shall be paid out of any of the aids or supplies granted for the service of the year one thousand eight hundred and sixty-eight, free and clear of all taxes and other deductions whatsoever, to the Minister of Finance, for the time being, in two separate sums, of four thousand dollars each, in trust for the use of each of the two children of the said Thomas D'Arcy McGee, namely, Mary Euphrasia McGee and Agnes Clara McGee, in such manner as the Governor in Council shall direct.

Interest on
such sum
until paid.

When such
interest shall
commence.

3. Until such sum of eight thousand dollars shall be so paid to the Minister of Finance as aforesaid, there shall be paid to the Minister of Finance, for the time being, from time to time, out of the said Consolidated Revenue Fund, in trust as aforesaid, interest for such sum of eight thousand dollars, at the rate of six per centum per annum, clear of all deductions, and such interest shall commence and take effect from the said seventh day of April, one thousand eight hundred and sixty-eight, the first payment of interest to be computed and made rateably from the said seventh day of April, to the said thirtieth day of June, one thousand eight hundred and sixty-eight, and from thence such interest to be payable half yearly, on the first day of January and the first day of July in each year, until such sum of eight thousand dollars shall be so paid as aforesaid, and any fraction of any half yearly payment of such interest shall be computed and paid to the day of such payment of the principal.

Receipts for
sums paid.

4. The acquittance or acquittances, receipt or receipts of the said Mary Theresa McGee, for the said annuity or yearly sum of one thousand two hundred dollars, and of such person as may be directed by the Governor in Council as the person to acquit the warrant for payment of the said sum of eight thousand dollars, or any part thereof, or of the interest thereon, or any part thereof, shall be a good and sufficient discharge for the payment of the said annuities or yearly sums or interest respectively, and the same shall be free and clear from all taxes, impositions and other public charges whatsoever, in respect of the same.

5. A detailed account of the moneys expended under the authority of this Act, shall be laid before the House of Commons during the first fifteen days of the Session of Parliament next after such expenditure. Accounting
clause.

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31 VIC., CHAP. 79.

An Act to amend "An Act to provide for the improvement and management of the Harbour of Quebec," and the Act amending the same.

[Assented to 22nd May, 1868.]

Preamble.
Province of
Canada,
22 V., c. 32.

WHEREAS it is expedient to amend the Act of the Legislature of the late Province of Canada, passed in twenty-second year of Her Majesty's reign, chapter thirty-two, intituled, "*An Act to provide for the improvement and management of the Harbour of Quebec*": Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

How Com-
missioners
shall be ap-
pointed in
future.

1. The third section of the said Act, twenty-second Victoria, chapter thirty-two, is hereby amended, so that three commissioners to be constituted and appointed by the Governor, by an instrument under the Great Seal, and two commissioners to be elected by the holders of bonds of the Quebec Harbour Commissioners, as hereinafter provided, shall be and are hereby substituted for and shall be the commissioners mentioned in the said Act.

Term of office.

2. The said five commissioners shall be so appointed and elected for two years from the fifteenth day of July next, until which day the present commissioners shall remain in office, and shall be replaced by five commissioners at the end of the said two years, to be appointed or elected in like manner, and so on, at the expiration of every second year, provided that all or any of the said commissioners shall be eligible for re-appointment or re-election.

Meeting of
bondholders
to elect.

3. The said bondholders shall meet on the first Monday of July, one thousand eight hundred and sixty-eight, and on the first Monday in July of every second year thereafter, at the office of the Quebec Harbour Commissioners, at two o'clock in the afternoon, to elect and name, and shall elect and name, the two elective commissioners mentioned in the second section of this Act, and for the purposes of this election each of the said bondholders shall have one vote for every five hundred dollars of bonds or debentures so held by him, and no sum less than five hundred dollars shall entitle the holder thereof to any vote, and any such

vote may be given by attorney or proxy ; and the chairman of said meeting and the secretary thereof, having been chosen by the meeting, shall certify the said election to the Secretary of State of Canada, and to the Secretary of the Quebec Harbour Commissioners ; and should the said first Monday of July be a legal holiday, then the said election shall be held and take place on the next juridical day thereafter, and one week's notice of every such meeting shall be given in two newspapers published in the city of Quebec, by one of the commissioners appointed by the Governor in Council ; the quorum of bondholders shall be not less than one hundred thousand dollars in value, present in person or by proxy, and if any such election should fail to be made in pursuance of any such notice as aforesaid, such election may be made on any subsequent day after like notice ; and in case of the failure of any election, and in case of any vacancy, the remaining commissioner or commissioners shall act until such election is made, or such vacancy filled.

Votes in person or by proxy.

Day of election and notice.

Quorum at meeting.

Provision in case of failure of election, &c.

4. The power given by the eighth section of the said Act, of borrowing sums of money and issuing debentures or bonds, is hereby limited to the sum of eight hundred thousand dollars, in the whole, including any sum already borrowed, and the Quebec Harbour Commissioners shall have power to issue new bonds or debentures, to redeem debentures or bonds becoming due, but such new debentures or bonds, or the proceeds thereof, shall be employed to no other purpose than that of redeeming the said debentures or bonds so becoming due.

Borrowing power limited.

5. The said commissioners shall select from amongst themselves their chairman, and shall fill any vacancy occurring in their number, and the person or persons so selected to fill the vacancy or vacancies shall be a commissioner for the remainder of the period for which his predecessor had been appointed or elected, and no longer ; and the said commissioners as commissioners or chairman shall be entitled to and receive no salary, fee or emolument.

Chairman of Commissioners.

Commissioners not to be paid.

6. This Act shall be construed as one Act with the Act first above cited and amended, and with any Act amending the same.

Public Act.



32-33 VIC., CHAP. 40.

An Act to provide means for improving the Harbors and Channels at certain Ports in the Provinces of the Dominion.

[Assented to 22nd June, 1869.]

Preamble.

WHEREAS it is expedient to provide means for improving the harbors and channels and rendering the navigation more easy and safe, at the several ports of Bathurst, Shippegan and Richibucto, in the Province of New Brunswick, Mabou, Port Hood, Margaree, Chetêcamp and Liverpool, in the Province of Nova Scotia, Amherst Harbor and House Harbor in the Magdalen Islands, and the several ports and harbors between Cross Point and Cape Chat, both ports inclusive, in the Bay of Chaleurs and the coast of Gaspé, all in the Province of Quebec, and the port of Chatham, in the Province of Ontario: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Governor in Council may impose tonnage duties on vessels entering the ports mentioned in the preamble for the purposes therein also mentioned.

1. The Governor in Council, being satisfied that it is expedient to raise funds for the purposes mentioned in the preamble as regards any one or more of the ports therein mentioned or referred to, may from time to time by a proclamation issued under an Order in Council and inserted in the *Canada Gazette*, impose on each vessel entering any such port named for the purpose in such proclamation, such tonnage duty not exceeding ten cents per ton of the registered measurement of such vessel, as he may deem expedient; and may from time to time in like manner increase or decrease, repeal or reimpose such duty, within the limits aforesaid, with respect to any such port or ports; and any copy of the *Canada Gazette* purporting to be printed by the Queen's Printer, shall be *primâ facie* evidence of such proclamation, and of its being duly issued and published under an Order in Council made in pursuance of this Act.

How collected.

2. Any duty so imposed as aforesaid, shall be collected by the collector of customs at the port at which it is payable, at the time of the entry of the vessel, which shall contain on the face of it the registered tonnage thereof; and no vessel shall be entered, or if entered shall be allowed to clear or to leave such port without payment of such duty, and may be

detained by the collector until it is paid ; but such duty shall only be payable once in each fiscal year, (commencing on the first day of July in each calendar year) on any vessel not exceeding one hundred tons register, and not more than twice in each fiscal year on any vessel exceeding one hundred tons, registered measurement, that is to say : on any vessel not exceeding one hundred tons register, the duty shall be payable on her first entry at such port in any fiscal year, but not on any subsequent entry during the same ; and on any vessel exceeding one hundred tons register, the duty shall be payable on her first, and on her second entry in any fiscal year, but not on any subsequent entry during the same.

Proviso :
as to payment
of such duty,
not oftener
than twice in
each fiscal
year.

3. The moneys received for such duties shall be accounted for and paid over by the collector receiving them, to the Receiver General, to form part of the Consolidated Revenue Fund, towards making good any sums which may be appropriated by Parliament for any of the works mentioned in the preamble, at the port where such duties have been collected.

*How to be
accounted
and paid
over.*

4. Every such collector shall, at the close of each quarter of the fiscal year, furnish the Minister of Marine and Fisheries with an account of the moneys collected by him under this Act during such quarter ; and at the end of each fiscal year the said Minister shall make a report and statement of the sums collected at each port, and those appropriated and expended, if any, for improvements thereat, during such year, and such report and statement shall be laid before Parliament at its then next Session.

*Accounts to
be sent to
Minister of
Marine and
Fisheries.*



32-33 VIC., CHAP. 42.

An Act to amend the Act of the late Province of Canada, twelfth Victoria, Chapter one hundred and fourteen, *To consolidate the laws relative to the powers and duties of the Trinity House of Quebec, and for other purposes.*

[Assented to 22nd June, 1869.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Notice of any obstruction to the navigation of River St. Lawrence in Port of Quebec to be given to Trinity House of Quebec.

1. In case any vessel or wreck, or other thing, sinks, or is lost in the River St. Lawrence between the Basin of Port-neuf, inclusively, and an imaginary line drawn from the eastern anchorage ground off Barnaby Island, near the south shore, to the eastern anchorage ground under Cape Columbia on the north shore of the said river so as to obstruct the navigation of the said river, the master of such vessel or the owner or other person for the time being in charge of such wreck or other thing, shall within forty-eight hours after the occurrence of such obstruction, if it takes place within the limits of the Harbor of Quebec, that is to say, between St. Patrick's Hole, inclusively, and the mouth of the Cap-Rouge River, inclusively, and as soon as possible after the expiration of forty-eight hours from such occurrence, if it takes place beyond such limits, unless such obstruction have been already removed, send or give to the Trinity House of Quebec a notice in writing, describing the nature and time and place of the occurrence, and the situation of such obstruction :—under a penalty of not less than ten dollars and not more than forty dollars.

Penalty.

Situation of obstruction to be indicated, and how.

2. Every such master or owner or person in charge as aforesaid shall further, as soon as possible after, and at the latest within forty-eight hours after, the occurrence of such obstruction, unless the same have been sooner removed, place some proper and sufficient signal by day, and some sufficient light or lights by night to indicate the place or situation of such obstruction, and shall keep and maintain such signal by day, and light or lights by night continually displayed, to the satisfaction of the Trinity House of Quebec, until such obstruction is wholly removed.

3. Any such master or owner or other person as aforesaid, failing or neglecting to comply with all or any of the provisions of the next preceding section shall be liable to a penalty of not less than five dollars nor more than ten dollars for every day or night during which such failure or neglect shall continue, over and above any sum which the Trinity House of Quebec may have expended, as it is hereby authorized to do, in causing such signal by day or light or lights by night, or both, to be placed as aforesaid and to be kept and maintained continually displayed as aforesaid, or only to be kept and maintained continually displayed as aforesaid, in consequence of the failure or neglect so to do of such master or owner or other person.

Penalty for failure to keep situation of obstruction properly indicated.

4. All suits for penalties incurred under this Act shall be brought before the Trinity House of Quebec; and to all such suits, and the costs thereof, and the penalties recovered therein, the rules of law with respect to all other suits for penalties before the said Trinity House, and the costs thereof, and the penalties recovered therein, shall apply.

Suits for penalties to be brought before Trinity House.

5. Expenses incurred by the Trinity House of Quebec, under the third section of this Act, may be recovered by civil suit or action in any Court in Canada having jurisdiction in civil cases to the amount within the limits of whose jurisdiction the defendant is served with process.

Recovery of expenses incurred by Trinity House.

6. Any owner of or other person having power to convey or dispose of any vessel, or wreck, or other thing forming such an obstruction as aforesaid, may at any time relieve and discharge himself of all further liability in respect of such obstruction by paying or securing to the Trinity House of Quebec, to its satisfaction, the sum, if any, it may have expended in respect thereof under the provisions of the third section of this Act, and by making and signing a relinquishment in writing of all his interest in such vessel, wreck or other thing to the said Trinity House of Quebec; provided the said Trinity House be willing to accept the same.

Owner of thing causing obstruction may relinquish the same to Trinity House.

Proviso.

7. After fifteen days have elapsed since the date of the occurrence of any such obstruction as aforesaid, without any compliance on the part of the master of the vessel or owner or other person for the time being in the charge of the wreck, or other thing causing such obstruction, with the requirements of the second section of this Act or since the date of his last compliance with such requirements, without such obstruction having been removed, and without such master or owner or other person having availed himself of the provisions of the next preceding section, the intention of the owner of such vessel, wreck or thing to relinquish all his interest therein to the Trinity House of Quebec shall be presumed.

Relinquishment to be presumed after fifteen days of neglect to comply with section two.

Trinity House
may take
possession of
obstruction
and remove
and dispose of
the same.

8. In any case under either of the two next preceding sections, the Trinity House of Quebec may, if it sees fit, take possession of a vessel, wreck or other thing forming an obstruction to the navigation of the River St. Lawrence as aforesaid, and remove the same by any means in its power, and may dispose of the same in the same manner, and after the observance of the same formalities as are required by law in the case of things found in the River St. Lawrence within its jurisdiction, and not claimed, and may indemnify itself out of the proceeds of sale for all expenses incurred with respect to such vessel, wreck or other thing.

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32-33 VIC., CHAP. 43.

An Act to amend the Act twenty-third Victoria, Chapter one hundred and twenty-three, being an Act incorporating the Corporation of Pilots for and below the Harbor of Quebec.

[Assented to 22nd June, 1869.]

WHEREAS the Corporation of Pilots for and below the Harbor of Quebec, have, by their petition, prayed that the Act of the Parliament of the late Province of Canada, twenty-third Victoria, chapter one hundred and twenty-three, may be so amended as to provide that any pilot who shall have caused any damage or loss while acting in the execution of his duties shall alone be responsible therefor, and whereas the prayer of the petition is just: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

Act of
Canada, 23
V., c. 123.

1. The Corporation constituted in virtue of the Act passed by the Parliament of the late Province of Canada, in the twenty-third year of Her Majesty's reign, and intituled, "*An Act to incorporate the pilots for and below the Harbor of Quebec*," shall not hereafter be held responsible for the acts of any pilot while acting as such, nor for any damages caused by any act, fault or negligence on the part of such pilot; and all payments by such Corporation to the members thereof shall be made in monthly dividends, payable not less than six days after the said dividends shall have been declared: Provided always, that full recourse shall remain against each such pilot individually for the whole amount of any damages by him caused, and that nothing in this Act contained shall extend to or affect liabilities incurred before the passing of this Act.

Corporation
constituted
by that Act,
not liable
hereafter for
damages by
individual
pilots.

proviso: not
to affect indi-
vidual liabili-
ty or liability
incurred be-
fore this Act.

2. The master of any vessel arriving in the Port of Quebec shall have the right to select, out of his turn, to pilot his vessel up the River St. Lawrence, any one of the pilots on board of the pilot schooners which shall board his vessel on any of the stations established for providing ships with pilots, and every such pilot who shall refuse or neglect to pilot when so selected shall be subject to the same penalty as that imposed by section thirty-three of the said Act on

Master of ves-
sel may select
any pilot on
board the
schooner to
pilot him.

pilots who refuse or neglect to pilot in their turn and recoverable in the same manner.

Pilots bound to serve when selected, under sec. 32 of the said Act.

3. Every pilot shall be bound to serve as such pilot whenever he shall be selected as provided by the thirty-second section of the said Act, and when not occupied as a pilot shall be bound to take his place on the roster or roll, either at Quebec or elsewhere, and be liable to be chosen and to serve whatever may have been the number of times he shall have previously served.

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32-33 VIC., CHAP. 44.

An Act to amend the Acts respecting the improvement and management of the Harbor of Quebec.

[Assented to 22nd June, 1869.]

WHEREAS the holders of bonds of the Quebec Harbor Commissioners have, by their petition, prayed amongst other things, that for the reasons therein mentioned the property and assets of the Quebec Harbor Commissioners be transferred to them; and whereas it is expedient further to amend the Act passed by the Legislature of the late Province of Canada, twenty-second Victoria, chapter thirty-two (1858), intituled, "*An Act to provide for the improvement and management of the Harbor of Quebec*," and the Acts amending the same: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The powers and rights conferred and the duties assigned to the Quebec Harbor Commissioners by the Acts above mentioned, shall be vested in and exercised by five Commissioners, all of whom shall be elected by the holders of bonds of the Quebec Harbor Commissioners, as herein-after provided; and such Commissioners so elected, are hereby substituted for and shall be held to be the Commissioners mentioned in the said Act.

All the Commissioners to be elected by the bondholders.

2. The said five Commissioners shall be elected at the time in each second year, for the period, and in the manner provided by the second and third sections of the Act of the Parliament of Canada, thirty-first Victoria, chapter seventy-nine, and all the provisions of the said sections with respect to the votes of the bondholders, the quorum at the meeting, and generally with respect to the election of Commissioners under the said Act shall apply to elections under this Act, except that the notice of the meeting for the election shall be given by the Secretary-Treasurer of the Harbor Commissioners for the time being; Provided always, that the next meeting of the bondholders for the election of Commissioners, shall be held on the first Monday in September, in the present year, one thousand eight hundred and sixty-nine, and the right to vote at such election shall be established by the production of the bonds of the Commission.

How and when to be elected: 31 V., c. 79 to apply.

Proviso: first election.

Present Commissioners to remain until replaced.

3. The present Commissioners shall continue to hold office as such until replaced by Commissioners elected under this Act, but the present Commissioners or any of them may be re-elected.

Sales of deep water lots.

4. The sale of any deep water lot forming part of the property vested in the Quebec Harbor Commissioners, shall not be valid or effectual until sanctioned by the Governor in Council.

Property vested in Commissioners in trust not to be liable in execution.

5. The property vested in the Corporation of the Quebec Harbor Commissioners by the Acts above cited in trust as therein mentioned, and all other property now belonging to the said Corporation of the Quebec Harbor Commissioners, shall continue to be vested in the said Corporation as constituted by this Act, in trust for the holders of bonds of the Quebec Harbor Commissioners, and for the other purposes in the said Acts mentioned, and shall not be liable for any debt or subject to execution or any other legal process based on any judgment or debt due or alleged to be due by the Corporation, except that nothing in this section contained shall affect or diminish any right of any existing creditor of the Corporation other than a bondholder, or any right of any bondholder founded on any judgment obtained, or on any suit pending, before the passing of this Act.

Exception.

Income to be held in trust for bondholders, &c.

6. The dues, tolls, duties and other revenues and profits collected and received by the Commissioners shall also be held by the Corporation in trust for the said bondholders, and for the other purposes in the said Acts mentioned, and shall after the payment of expenses of collection of the same and other prior charges authorized by law, be applied for the benefit of the bondholders in such manner as the Commissioners may from time to time appoint, but subject to the provisions hereinafter contained.

Power of bondholders at a special meeting to agree to a reduction of interest and a Sinking Fund.

7. Upon a requisition to the chairman of the Commissioners signed by holders of bonds to the amount of not less than one hundred thousand dollars, the chairman shall, by advertisement published in French and English for four weeks at least, in the *Canada Gazette*, in the *Quebec Official Gazette*, and in at least two newspapers published in each of the cities of Quebec and Montreal, call a special meeting of the holders of bonds of the Quebec Harbor Commissioners to be held at Quebec; and at such meeting, any number of bondholders present in person or by proxy who shall represent three fourths in value of the said bonds, may resolve, by their vote given at such meeting that the rate of interest payable on the said bonds shall be reduced and that a sinking fund shall be created to provide for the redemption of the said bonds, and they may, by such vote and resolution, fix the new rate of interest to be so paid, and the amount to be

added annually in the sinking fund ; and such vote and resolution being certified to the Commissioners by the chairman and secretary of the meeting (such chairman and secretary being respectively one of the Commissioners and the Secretary-Treasurer of the Commissioners) shall be binding on all the bondholders and shall be acted upon by the said Commissioners : Provided always, that inasmuch as the bonds issued by the Commissioners bear different rates of interest, such several rates shall all be reduced in like proportion, that is by an equal percentage on or aliquot part of each rate.

8. So much of any of the Acts hereinbefore mentioned as is repugnant to or inconsistent with the provisions of this Act is hereby repealed. Repeal.

9. This Act shall be construed as one Act with the other Acts for the improvement and management of the Harbor of Quebec. Act how construed.

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33 VIC., CHAP. 3.

An Act to amend and continue the Act 32 and 33 Victoria, chapter 3, and to establish and provide for the Government of the Province of Manitoba.

[Assented to 12th May, 1870]

Preamble.

WHEREAS it is probable that Her Majesty the Queen may, pursuant to "*The British North America Act, 1867*," be pleased to admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, before the next Session of the Parliament of Canada :

And whereas it is expedient to prepare for the transfer of the said Territories to the Government of Canada at the time appointed by the Queen for such admission :

And whereas it is expedient also to provide for the organization of part of the said Territories as a province, and for the establishment of a government therefor, and to make provision for the civil government of the remaining part of the said Territories, not included within the limits of the Province :

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

* * * * *

Certain provisions of B. N. A. Act, 1867, to apply to Manitoba.

2. On, from and after the said day on which the Order of the Queen in Council shall take effect as aforesaid, the provisions of "*The British North America Act, 1867*," shall, except those parts thereof which are in terms made, or, by reasonable intendment, may be held to be specially applicable to, or only to affect one or more, but not the whole of the Provinces now composing the Dominion, and except so far as the same may be varied by this Act, be applicable to the Province of Manitoba, in the same way, and to the like extent, as they apply to the several Provinces of Canada, and as if the Province of Manitoba had been one of the Provinces originally united by the said Act.

* * * * *

Lieutenant-Governor.

6. For the said Province there shall be an officer styled the Lieutenant-Governor, appointed by the Governor General in Council, by instrument under the Great Seal of Canada.

7. The Executive Council of the Province shall be composed of such persons, and under such designations, as the Lieutenant-Governor shall, from time to time, think fit; and in the first instance of not more than five persons.

Executive
Council.

8. Unless and until the Executive Government of the Province otherwise directs, the seat of government of the same shall be at Fort Garry, or within one mile thereof.

Seat of
Government.

9. There shall be a Legislature for the Province, consisting of the Lieutenant-Governor, and of two Houses, styled respectively, the Legislative Council of Manitoba, and the Legislative Assembly of Manitoba.

Legislature.

10. The Legislative Council shall, in the first instance, be composed of seven members, and after the expiration of four years from the time of the first appointment of such seven members, may be increased to not more than twelve members. Every member of the Legislative Council shall, be appointed by the Lieutenant-Governor in the Queen's name, by instrument under the Great Seal of Manitoba, and shall hold office for the term of his life, unless and until the Legislature of Manitoba otherwise provides under "*The British North America Act, 1867.*"

Legislative
Council.

Members and
their appoint-
ment, &c.

11. The Lieutenant-Governor may, from time to time, by instrument under the Great Seal, appoint a member of the Legislative Council to be Speaker thereof, and may remove him and appoint another in his stead.

Speaker.

12. Until the Legislature of the Province otherwise provides, the presence of a majority of the whole number of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

Quorum.

13. Questions arising in the Legislative Council shall be decided by a majority of voices, and the Speaker shall, in all cases, have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

Voting.

Equality of
votes.

14. The Legislative Assembly shall be composed of twenty-four members, to be elected to represent the electoral divisions into which the said Province may be divided by the Lieutenant-Governor, as hereinafter mentioned.

Legislative
Assembly.

15. The presence of a majority of the members of the Legislative Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers; and for that purpose the Speaker shall be reckoned as a member.

Quorum.

16. The Lieutenant-Governor shall (within six months of the date of the Order of Her Majesty in Council, admit-

Electoral
divisions.

ing Rupert's Land and the North-Western Territory into the Union), by Proclamation under the Great Seal, divide the said Province into twenty-four electoral divisions, due regard being had to existing local divisions and population.

Qualification
of voters.

17. Every male person shall be entitled to vote for a member to serve in the Legislative Assembly for any electoral division, who is qualified as follows, that is to say, if he is :—

1. Of the full age of twenty-one years, and not subject to any legal incapacity ;

2. A subject of Her Majesty by birth or naturalization ;

3. And a *bonâ fide* householdder within the electoral division, at the date of the writ of election for the same, and has been a *bonâ fide* householder for one year next before the said date ; or,

Special,—for
first election
only.

4. If, being of the full age of twenty-one years, and not subject to any legal incapacity, and a subject of Her Majesty by birth or naturalization, he was, at any time within twelve months prior to the passing of this Act, and (though in the interim temporarily absent) is at the time of such election a *bonâ fide* householder, and was resident within the electoral division at the date of the writ of election for the same :

Proviso.

But this fourth sub-section shall apply only to the first election to be held under this Act for members to serve in the Legislative Assembly aforesaid.

Proceedings
at first elec-
tion, &c.,—
how regu-
lated.

18. For the first election of members to serve in the Legislative Assembly, and until the Legislature of the Province otherwise provides, the Lieutenant-Governor shall cause writs to be issued, by such person, in such form, and addressed to such Returning Officers as he thinks fit ; and for such first election, and until the Legislature of the Province otherwise provides, the Lieutenant-Governor shall, by proclamation, prescribe and declare the oaths to be taken by voters, the powers and duties of returning and deputy returning officers, the proceedings to be observed at such election, and the period during which such election may be continued, and such other provisions in respect to such first election as he may think fit.

Duration of
Legislative
Assembly.

19. Every Legislative Assembly shall continue for four years from the date of the return of the writs for returning the same (subject nevertheless to being sooner dissolved by the Lieutenant-Governor), and no longer ; and the first Session thereof shall be called at such time as the Lieutenant-Governor shall appoint.

Sessions at
least once a
year.

20. There shall be a session of the Legislature once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in one session and its first sitting in the next session.

21. The following provisions of "*The British North America Act, 1867*," respecting the House of Commons of Canada, shall extend and apply to the Legislative Assembly, that is to say:—Provisions relating to the election of a Speaker, originally, and on vacancies,—the duties of the Speaker,—the absence of the Speaker and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to the Legislative Assembly.

Certain provisions of B.N.A. Act, 1867, to apply.

22. In and for the Province, the said Legislature may exclusively make laws in relation to education, subject and according to the following provisions:—

Legislation touching schools subject to certain provisions.

1. Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the Province at the Union;

2. An appeal shall lie to the Governor General in Council from any Act or decision of the Legislature of the Province, or of any Provincial authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education;

3. In case any such Provincial law, as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section.

Power reserved to Parliament.

23. Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both those languages shall be used in the respective records and journals of those Houses, and either of those languages may be used by any person, or in any pleading or process, in or issuing from any court of Canada established under "*The British North America Act, 1867*," or in or from all or any of the courts of the Province. The Acts of the Legislature shall be printed and published in both those languages.

English and French languages to be used.

24. Inasmuch as the Province is not in debt, the said Province shall be entitled to be paid, and to receive from the Government of Canada, by half-yearly payments in advance, interest at the rate of five per centum per annum on the sum of four hundred and seventy-two thousand and ninety dollars.

Interest allowed to the Province on a certain amount of the debt of Canada.

Canada
assumes
certain ex-
penses.

26. Canada will assume and defray the charges for the following services :—

1. Salary of the Lieutenant-Governor ;
2. Salaries and allowances of the judges of the Superior and District or County Courts ;
3. Charges in respect of the Department of the Customs.
4. Postal Department ;
5. Protection of Fisheries ;
6. Militia ;
7. Geological Survey ;
8. The Penitentiary ;

General pro-
vision.

9. And such further charges as may be incident to, and connected with the services which, by "*The British North America Act*, 1867," appertain to the General Government, and as are or may be allowed to the other Provinces.

* * * * *

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33 VIC., CHAP. 12.

An Act to remove certain restrictions with respect to the issue of Bank Notes in Nova Scotia.

[Assented to 12th May, 1870.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. So much of the thirteenth section of chapter eighty-three of the Revised Statutes of Nova Scotia, third series, intituled, "*Of currency*," or of any other Act or law, or of the charter of any bank, in force in Nova Scotia, as prohibits the issue of any bank note by any chartered bank for a less sum than twenty dollars, is hereby repealed, but no chartered bank in Nova Scotia shall issue any bank note for a less sum than four dollars currency of that Province, under the penalty imposed by the said thirteenth section of the said chapter eighty-three, for issuing notes for a less sum than twenty dollars.

Preamble.
Banks in Nova Scotia may issue notes under \$20. but not under \$4.

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33 VIC., CHAP. 20.

An Act to amend and extend the Act to provide means for improving the Harbors and Channels at certain Ports, in the Provinces of the Dominion.

[Assented to 12th May, 1870.]

Preamble,
32 and 33
Vic, c. 40,
cited.

WHEREAS it is expedient to amend the Act to provide means for improving the Harbors and Channels at certain ports in the Provinces of the Dominion, passed in the Session held in the thirty-second and thirty-third years of Her Majesty's Reign; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Section 2
amended.

How and
where the
duty shall be
payable.

1. Section two of the said Act shall be and is hereby so amended as to read as follows:

On vessel not
over 100 tons.

On vessels
over 100 tons.

“ Any duty so imposed as aforesaid shall be collected by the collector of Customs or other officer or person authorized by the Minister of Customs to collect the same, at the port at which it is payable, at the time of the entry of the vessel (if she be entered at the Custom house) and her entry shall then contain on the face of it the registered tonnage of the vessel; and no vessel shall be entered, or if entered shall be allowed to clear or to leave such port, without payment of such duty, and any such vessel may be detained by the collector or other officer or person authorized as aforesaid until it is paid, whether such vessel be or be not entered at the Custom house; but such duty shall be payable only once in twelve calendar months, to be reckoned from the day upon which such payment shall be made, on any vessel not exceeding one hundred tons register,—and not more than twice in any twelve calendar months (to be similarly computed), on any vessel exceeding one hundred tons, registered measurement, that is to say:—on any vessel not exceeding one hundred tons register, the duty shall be payable on her first entry into such port during any twelve months, but not on any subsequent entry into the same within the twelve months immediately following: and on any vessel exceeding one hundred tons register, the duty shall be payable on her first entry during any twelve months, and on her second entry into such port within twelve months from the date of such first entry,

“ but not on any subsequent entry during the said twelve months.”

And the said section as so amended shall be construed as if it had formed section two of the said Act, at the time of the passing thereof.

2. The said duty shall be payable on any vessel entering into any such port, and such vessel may be detained until it is paid, whether she do or do not require entry or clearance at the Custom house; and the master or person in charge of any vessel on which such duty is payable, who does not pay the same within two days after entering such port, shall thereby incur a penalty of fifty dollars, recoverable before any justice of the peace having jurisdiction at such port, and leviable, if not forthwith paid, on the tackle and apparel of the vessel.

How enforced
if not paid.

3. The said Act, as hereby amended, is hereby extended and shall apply to Aspy Bay or Cape North Harbor, and Southern Bay, Inganiche, both in Victoria County, in the Province of Nova Scotia, as fully in all respects as to the ports and harbors mentioned in the said Act.

Act extended
to certain
ports in Nova
Scotia.



33 VIC., CHAP. 24.

An Act respecting certain Works on the Ottawa River.

[Assented to 12th May, 1870.]

Preamble.

WHEREAS, by the ninety-first section of "*The British North America Act, 1867*," it is in effect enacted, that the exclusive legislative authority of the Parliament of Canada extends (among other subjects) to all matters relating to navigation and shipping,—and to such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by the said Act assigned exclusively to the Legislatures of the Provinces,—and by the ninety-second section of the said Act, such works as, although wholly situate within any Province, are before or after their execution, declared by the Parliament of Canada to be for the general advantage of Canada, or for the advantage of two or more of the Provinces, are expressly excepted in the enumeration of the classes of subjects by the said Act assigned exclusively to the legislatures of the Provinces:—and whereas the Ottawa River is a navigable river, and is in fact navigated throughout its whole course, and such works thereon as may be important to the navigation of the said river are for the general advantage of Canada, and ought to be subject to the control and direction of the Government of the Dominion: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Navigation of the River Ottawa to be subject to the exclusive authority of Parliament, with all works connected with the same, or in or on the waters of the River, and under the control of the Department of Public Works.

1. The navigation of the River Ottawa, as well by vessels and boats as by rafts and cribs of timber or logs, is hereby declared to be subject to the exclusive legislative authority of the Parliament of Canada, and all canals or other cuttings for facilitating such navigation, and all dams, slides, piers, booms, embankments, and other works of what kind or nature soever in the channel or waters of the said River, or in which the waters of the said river are used, and in whatever Province situate, and whether constructed or to be constructed, and whether constructed by the Government of Canada or by the Government of the late Province of Canada, or by the Government of Upper or of Lower Canada, or by any private party by the consent and authority of any of the said Governments, which shall, from time to time, be recognized by the Governor in Council, on the report of the Minister of Public Works, as being or as having been, constructed for

any purpose of public utility, shall be held to be works for the general advantage of Canada, and, with all works of like character, no matter by whom constructed and whether recognized as being for the general advantage or not, situate in or on the waters of the said river, shall be subject to the exclusive legislative authority of the Parliament of Canada, and shall be under the control and management of the Department of Public Works, and subject to the provisions of the Act, intituled "*An Act respecting the Public Works of Canada.*"

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



33 VIC., CHAP. 33.

An Act to continue and make permanent certain Acts and parts of Acts of the Province of New Brunswick, relative to the Police Force in the Parish of Portland, in the City and County of Saint John.

[Assented to 12th May, 1870.]

Preamble.

WHEREAS an Act of the Legislature of the Province of New Brunswick, made and passed in the eleventh year of Her Majesty's Reign, and intituled: "*An Act for establishing and maintaining a Police Force in the Parish of Portland in the City and County of Saint John*," and declared to be in force until the first day of May, which would be in the year of Our Lord one thousand eight hundred and fifty-one, has been, by sundry subsequent Acts of the Legislature of the said Province, continued in force until the first day of May now next, when, if not again continued, it would expire:

And whereas, under and by virtue of "*The British North America Act, 1867*," certain of the provisions of the said recited Act of the Legislature of the Province of New Brunswick and of sundry subsequent Acts of the said Legislature in addition thereto, and in amendment thereof, have ceased to be the subject of legislation within the said Province, inasmuch as the same relate to matters not coming within the classes of subjects by the said "*The British North America Act, 1867*," assigned exclusively to the Legislatures of the Province;

And whereas, it is highly desirable to continue and make perpetual such provisions of the said recited Act, and of the other Acts in addition thereto, and in amendment thereof:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Certain sections and parts of the Acts of New Brunswick—
11 V., c. 12;
14 V., c. 7;
23 V., c. 7;
24 V., c. 27;
28 V., c. 3,
and 30 V., c. 36—continued and made perpetual.

1. The following Act and parts of Acts of the Legislature of the said Province of New Brunswick, that is to say—

Of the said recited Act eleventh Victoria, chapter twelve, sections three, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen so far as relates to the construction of the parts of the said Act herein mentioned and referred to, seventeen, eighteen, nineteen, twenty, twenty-two, twenty-three so far as refers to criminal cases, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-

eight, twenty-nine, thirty, thirty-one, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, and forty-three, and section fifty-two of the said Act as amended by section three of the Act fourteenth Victoria, chapter seven;—

Of the Act fourteenth Victoria, chapter seven, so much of section two as provides for the payment of any sum out of the Portland Police Fund;—

Of the Act twenty-third Victoria, chapter seven, section two;—

The whole of the Act twenty-fourth Victoria, chapter sixteen;—

Of the Act twenty-eighth Victoria, chapter three, sections six, seven, eight, nine, ten, eleven, and twelve;—

Of the Act thirtieth Victoria, Second Session, chapter thirty-six, sections one, five, and six;—

And all other parts of any of the Acts aforesaid, and all Acts or parts of Acts of the Legislature of the said Province, in addition to or in amendment of the said recited Act, together with all forms and tables of fees or costs authorized or required thereby, are hereby declared to be in force within the said Province, for the purposes, and in the Parish of Portland, therein mentioned or intended, and are continued and made perpetual so far as the provisions thereof relate to matters not coming within the classes of subjects by "*The British North America Act, 1867*," assigned exclusively to the Legislatures of the Provinces, and are not inconsistent with those of any Act of the Parliament of Canada now in force.

2. All fines, penalties, forfeitures or costs ordered, imposed and received by the police magistrate, or sitting magistrate, alone, or with any other justice of the peace, at the police office in the said Parish of Portland, shall be paid over to the treasurer of the Portland Police, for the purposes, and to be applied according to the provisions of the said first recited Act, anything in the Act authorizing the imposition or payment of any such fine, penalty, forfeiture, or costs, to the contrary notwithstanding.

Fines, &c.,
received to be
paid over to
the Treasurer
of the Port-
land Police.

3. Nothing in this Act contained shall be taken or construed to prevent the said police magistrate, or sitting magistrate, in the said Parish of Portland, from proceeding, where applicable, and he may deem it expedient, under any one of the following Acts, passed in the thirty-second and thirty-third years of Her Majesty's Reign, namely, "*An Act respecting the duties of Justices of the Peace out of Sessions, in relation to Summary Convictions and Orders*," "*An Act respecting the prompt and summary administration of Criminal Justice in certain cases*," and "*An Act respecting the Trial and Punishment of Juvenile Offenders*."

Act not to
prevent pro-
ceedings
under 32 and
33 V., c. 31,
32, and 33.

Appeal from
convictions.

4. The same appeal shall lie against all convictions under this Act, and the Acts therein mentioned, and subject to the same terms and conditions as are provided and required by the thirty-second and thirty-third Victoria, chapter thirty-one.

Certain con-
victions to be
exempt from
provisions of
32 and 33 V.,
c. 31, s. 76,
77, and 78.

5. The provisions of the seventy-sixth, seventy-seventh, and seventy-eighth sections of the said Act, thirty-second and thirty-third Victoria, chapter thirty-one, shall not be deemed or taken to apply to convictions for minor offences, made under the provisions of any law relating to police of merely local operation, by any police magistrate or sitting magistrate of the said Province of New Brunswick.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



33 VIC., CHAP. 40.

An Act to vest in Her Majesty, for the purposes therein mentioned, the property and powers now vested in the Trustees of the Bank of Upper Canada.

[Assented to 12th May, 1870.]

WHEREAS the property and assets of the Bank of Upper Canada, vested, by the Act passed in the thirty-first year of Her Majesty's Reign, intituled, "*An Act for the settlement of the affairs of the Bank of Upper Canada*," in the trustees therein mentioned, are wholly insufficient to meet the liabilities of the said bank; and whereas but little progress has been made under the said Act in the settlement of the affairs of the bank, and it is expedient, in the interest as well of the Dominion of Canada (which is by far the largest creditor of the bank, and on account of whose claim no dividend has been as yet received,) as of all other parties concerned, that provision should be made for the more speedy disposal of the property and assets of the bank, and for making a fair and equitable adjustment and settlement of the claims of all the creditors of the bank: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

31 V., c. 17.

Property and assets of the Bank transferred to the Crown on and after 1st August, 1870:

1. All the assets, properties, estates and effects, real and personal, and all the claims, rights and credits of the Bank of Upper Canada, held and possessed by the trustees of the Bank of Upper Canada on the day next hereinafter mentioned, under the Act cited in the preamble to this Act, and the schedule thereunto annexed, or belonging to or acquired by the said trustees or having come into their possession since the passing of the said Act, and in their hands, power, or control, shall be and are hereby transferred to and vested in Her Majesty for the Dominion of Canada and the purposes of this Act upon and after the first day of August, in the present year, 1870, subject, nevertheless, to the charges, incumbrances and equities, if any, to which they are then subject: and no registry of such transfer in any registry office, nor any assignment, indorsement, or transfer from the trustees, shall be necessary to give effect thereto or for any purpose relating thereto.

Powers, &c., of the trustees transferred to the Governor in Council: continuance of suits.

2. All the powers, authorities, rights and immunities vested in or conferred on the trustees of the Bank of Upper Canada, by the Act hereinbefore cited and the schedule thereto shall be and are hereby transferred to, conferred upon and vested in the Governor in Council, and may be exercised by or through such officer or officers, person or persons, as the Governor in Council may from time to time appoint, and in such manner as shall, from time to time, be directed by Orders in Council; and any suit or proceeding to which, on the first day of August aforesaid, the said trustees shall be a party, may be continued, by substituting the name of Her Majesty in the place of that of the said trustees, upon a suggestion of the passing of this Act.

Parts of the former Act repealed.

3. Section four of the Act hereinbefore cited, and all the subsections of section five thereof, except those numbered respectively one, two, three, fifteen, and sixteen, shall be repealed, on and after the first day of August aforesaid, with so much of any other part of the said Act or schedule as may be inconsistent with the provisions of this Act.

Powers of Governor in Council to sell, compromise, &c.

4. The Governor in Council shall have full power to sell and dispose of the properties, estates, and effects hereby vested in Her Majesty, in such manner and upon such terms and conditions, and to such parties (whether creditors of the bank, or otherwise,) or to assign any part thereof to any creditors in satisfaction of their claims as to him may seem expedient, and to settle, adjust, compound for, compromise and arrange any claim on the said bank or debt due to it, and to pay any claim on the bank when so adjusted either out of the proceeds of the properties, estates, and effects of the bank aforesaid, or by such assignment as aforesaid: Provided that, except in the case of any such compromise with any creditor of the bank for an abatement on his claim, or of any abatement which the Governor in Council may deem it expedient to make on the claim of the Dominion, the Dominion and the several other creditors of the bank shall be entitled to share equally *pro ratâ*, and in proportion to their respective claims, in the properties, estates and effects of the bank hereby transferred to Her Majesty and the proceeds thereof; and nothing in this section shall be construed to derogate from or impair any authority or power vested in the trustees of the bank of Upper Canada by the Act hereinbefore cited and the schedule thereto, and hereby transferred to and vested in the Governor in Council.

Proviso, for equal sharing of creditors in bank assets.

Part of the said Act repealed.

5. So much of the schedule to the Act hereinbefore cited, or of the said Act, as would require that any dividend should be declared, or that the moneys received by the said trustees should be deposited or withdrawn in any specified manner, or that any balance sheet of the affairs of the trust shall or should be published, on and after the first day of August

aforesaid, shall be repealed; and the Governor in Council may direct in what manner such moneys shall be deposited or withdrawn; and any portion thereof belonging to the Dominion shall form part of the Consolidated Revenue Fund of Canada; and the Governor in Council may from time to time order the publication of any statement relative to the matters mentioned in this Act, which he may think proper.

Powers of Governor in Council.

6. If after payment of the claims of the Dominion, and of the other creditors of the bank, there should remain undistributed, any portion of the proceeds of the properties, estates and effects hereby vested in Her Majesty, the same shall be divided among the shareholders of the bank *pro rata*, in proportion to the number of shares they respectively held in the stock of the bank.

Provision if there should be any surplus of assets.

7. The trustees of the Bank of Upper Canada appointed or elected under the Act hereinbefore cited, shall cease to be such on the first day of August aforesaid, except only for the purpose of delivering over to such officers or persons as the Governor in Council may appoint to receive the same, all personal property and effects, books and papers relating to the said trust.

Trustees to cease to be so on 1st August next.

8. All deeds and writings which may be necessary to carry out the provisions of this Act, may be executed on behalf of Her Majesty by such person or persons as may be from time to time appointed by Order in Council, and shall be sufficient, by the signature of such person or persons, to effectuate the intention of such deeds or writings, without affixing the Great Seal of the Dominion or any other seal thereto.

As to execution of any deeds, &c., under this Act.

9. A statement of what shall have been done under this Act shall be laid before Parliament within the first fifteen days of each Session, after the passing thereof, until the affairs of the said bank are fully wound up and settled.

Return to Parliament.



33 VIC., CHAP. 44.

An Act further to amend the Acts respecting the improvement and management of the Harbor of Quebec.

[Assented to 12th May, 1870.]

Preamble.

WHEREAS the Quebec Harbor Commissioners have, by their petition, set forth that doubts have arisen as to the right of persons indebted to the said corporation for rent or for wharfage, to offer in payment coupons for interest due on the bonds or debentures thereof, which interest the said Commissioners have not the means of paying in full to all holders of such coupons, and have prayed that an Act may be passed to prevent such persons from obtaining priority or preference over other holders of such coupons; and whereas it is expedient that the prayer of the said petition be granted: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Before each 1st July or 1st January, the Commissioners shall declare what coupons they will then be able to pay, and enter the same on their minutes.

1. On, or shortly before the first day of July next, and on or shortly before, every first day of January and first day of July thereafter, so long as any debentures or bonds issued by the Quebec Harbor Commissioners are outstanding, the said Commissioners shall make an estimate as to whether or not there remains, or will remain, in their hands, on such first day of July, or first day of January, as the case may be, out of the dues, tolls, duties, rates, penalties and other revenues and profits collected and received by them, any sum available and sufficient for the payment, without priority or preference, of interest due on all debentures or bonds issued by the said Commissioners, for the period of six months to such first day of July or first day of January, or for that and any like previous period or periods of six months, or for any such previous period or periods of six months only, and thereupon the said Commissioners may resolve and declare, as the case may require, either that there will not be any payment made on such first day of January, or first day of July, as the case may be, on account of such interest accrued prior to that day, or that payments of such interest for a period or for a stated number of periods of six months only, will then be

made; and such resolution and declaration shall be recorded forthwith in the minutes of the proceedings of the said Commissioners.

2. At no time after the passing of this Act shall the debt of the Quebec Harbor Commissioners for the interest accrued on any debenture or bond of the said Commissioners for any period, be or be deemed to be liquidated and demandable, to the effect of extinguishing by compensation, any liquidated and demandable debt due to them, unless nor until the said commissioners have so resolved and declared their ability to pay the interest due for that period on all sums borrowed under the said Acts, without priority or preference, and an entry of such resolution and declaration has been made as aforesaid.

Until any interest is so declared payable, it shall not be deemed liquidated and demandable. &c.

3. So long as any accrued interest on any debentures or bonds issued by the Quebec Harbor Commissioners remains unpaid, no debt of the said Commissioners for the principal of any such debenture or bond, shall be or be deemed to be liquidated and demandable, to the effect of extinguishing, by compensation, any liquidated and demandable debt due to them, unless nor until the said Commissioners have so resolved and declared their ability to pay the interest due for the period during which such unpaid interest accrued, on all sums borrowed under the said Acts, without priority or preference, and an entry of such resolution and declaration has been made as aforesaid.

And so with respect to the principal of any bond, &c.

4. A copy of any entry in the minutes of the proceedings of the said Commissioners, certified by the secretary-treasurer of the said corporation to be a true copy, sealed with the seal of the said corporation, and countersigned by the chairman thereof, shall be *prima facie* evidence of the truth of all statements of facts therein contained, and of the correctness of all dates therein mentioned including the date therein mentioned as being that on which such entry was made.

Copy of minutes duly certified to be evidence.



33 VIC., CHAP. 45.

An Act to authorize the Corporation of the Township of Collingwood, in the County of Grey, to impose and collect Tolls or Harbor Dues, at the mouth of Beaver River, and for other purposes.

[Assented to 12th May, 1870.]

Preamble.

WHEREAS the Corporation of the Township of Collingwood, in the County of Grey, have by their petition represented, that it is desirable to construct and improve a harbor at the mouth of Beaver River, on the Georgian Bay, in the said township, and that a considerable sum of money has been expended for this purpose: and whereas the said Corporation have further represented, that it is their intention to complete the construction of the said harbor, and have prayed that authority may be given to them to pass a by-law or by-laws for the imposition and collection of a tariff of dues on goods, wares, merchandize and chattels, shipped on, or landed from any vessel within the limits of the said proposed harbor, for the purpose of enabling them to maintain and keep in repair the said harbor; and whereas the proposed harbor will be of great benefit and advantage to persons navigating the Georgian Bay, and it is expedient to grant the prayer of the said petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Power to construct a harbor and breakwater.

1. The Corporation of the said Township of Collingwood are authorized and empowered to construct, extend and improve a harbor, to be called the Harbor of Thornbury, at the mouth of Beaver River, in the said township—and to make, construct and erect a breakwater in the said harbor.

Power to raise money.

2. The said Corporation are authorized and empowered to pass a by-law or by-laws for raising such sums as shall be necessary to construct and complete the said works, and also from time to time to pass such further by-law or by-laws for raising such further sum or sums as may be necessary for the purposes aforesaid, not exceeding however in the whole the sum of ten thousand dollars; such by-law and by-laws being first submitted to the ratepayers of the said township in accordance with the provisions of the Municipal Act for the Province of Ontario.

Proviso.

3. The said Corporation are authorized and empowered to pass by-laws for the imposition and collection of tolls, to be employed, after the expenses of collection, for the purpose of assisting in liquidating the debt incurred or which may hereafter be incurred, in constructing, improving and keeping in repair the said harbor and the works connected therewith, on all goods, wares, merchandize and chattels, shipped on board or landed out of any vessel, boat or other craft, from or upon any part of the said Beaver River or elsewhere within the limits of the said harbor, or on or upon the lands or premises adjacent thereto and belonging to the said Corporation, and upon all logs, timber, spars and masts going through the same or any part thereof, and on all vessels, boats or other craft entering the said harbor, not exceeding the rates following, that is say:—

Power to impose and collect tolls, not exceeding certain rates.

	\$	cts.
Ale, Beer or Porter, per barrel.....	0	05
Apples, Fish, Salt, Water-lime or Plaster, per barrel	0	05
Brandy, Gin, Rum, Wines or High Wines, per barrel	0	10
Bricks, per M.....	0	05
Calves, Sheep or Swine, each.....	0	10
Coal, per ton.....	0	15
Castings, Chain Cable, Nails and Spikes, per ton....	0	25
Cordwood, per cord.....	0	05
Earthen or Stoneware, per crate or hhd.....	0	06
Eggs, per barrel or box.....	0	04
Flour or Meal, per barrel.....	0	03
Fowls of all kinds, each.....	0	01
Furniture, per 100 lbs.....	0	02½
Fanning Mills, each.....	0	12
Grain of all kinds, per bushel.....	0	01
Grindstones, per ton.....	0	25
Horses or Horned Cattle, each.....	0	10
Horse Rakes, Straw Cutters, Root Slicers and Ploughs, each.....	0	05
Hides and Skins, per 100 lbs.....	0	05
Hay, per ton.....	0	10
Hops, per 100 lbs.....	0	10
Lard or Butter, per keg or firkin.....	0	02
Lime, per barrel.....	0	01
Leather, per 100 lbs.....	0	02
Merchandize, not herein enumerated, per ton.....	0	40
Nursery Produce, per ton.....	0	40
Potatoes and other roots, per bushel.....	0	01
Pork, Beef, Lard or Butter, per barrel.....	0	05
Potash, Pearlash, Molasses, Whiskey, Vinegar, per barrel.....	0	06
Pig, Bar, Scrap or Cast Iron, per ton.....	0	25
Reaping and Mowing Machines, each.....	0	50
Sawed Lumber, per M. feet.....	0	12
Square or Round Timber, per 100 cubic feet	0	05

	\$	cts.
Saw Logs, each	0	01
Shingles and Laths, per M.....	0	02
Staves, per M.....	0	05
Stave Bolts, per cord	0	05
Timothy and Clover Seed, per bushel.....	0	02
Thrashing Machines, each.....	0	25
Vehicles of all kinds, each.....	0	25
Vessels of 100 tons register, and upwards.....	1	00
Vessels of 10 tons, and not exceeding 100 tons reg- ister.....	0	50
All other articles not herein enumerated, per 100 lbs.	0	02½

Proviso: tolls to be subject to approval of Governor in Council, and accounted for.

Provided, that any by-law or by-laws imposing tolls or harbor dues as aforesaid shall be approved by the Governor in Council, before having any force or effect, and that an annual return shall be made to the Parliament of the Dominion of Canada, of the amounts collected under the same, and the mode of expenditure.

Power to levy the tolls if payment be refused.

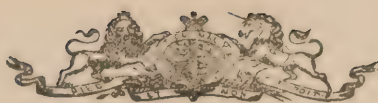
4. If any person or persons neglect or refuse to pay the tolls or dues to be imposed or collected under this Act, or any by-law that may be passed under the authority thereof, the said Corporation or their officer, clerk, servant, agent or lessee may seize and detain the goods, wares, merchandize and chattels, logs, timber, spars, and masts, on which the same are due and payable, until such tolls or dues are paid, and if the same be unpaid after the space of thirty days next after such seizure, the said Corporation or their officer, clerk, servant or lessee as aforesaid, may sell and dispose of the said goods, wares, merchandize, chattels, logs, timber, spars or masts, or such part thereof as may be necessary to pay the said tolls or dues and the reasonable costs and charges of keeping and selling the same by public auction, giving ten days' notice thereof, and returning the surplus, if any, to the owner or owners thereof.

Vessels liable for tolls on goods brought or shipped in them.

5. Every vessel, boat, or other craft, on board of which goods, wares, merchandize, chattels and other things are shipped, or from which they are landed, shall be liable for the dues chargeable against such goods, wares, merchandize, chattels and other things, and in the event of non-payment thereof, may be detained until payment thereof is made.

Harbor to be subject to any general law.

6. The said harbor and works thereof shall be subject to the provisions of any Act or Acts of the Parliament of Canada, which may be passed hereafter for the construction, improvement, regulation, or maintenance of harbors.



33 VIC., CHAP. 46.

An Act to authorize the Town of Belleville to impose and collect Harbor Dues, and for other purposes.

[Assented to 12th May, 1870.]

WHEREAS the town of Belleville has incurred large Preamble.
liabilities in the improvement and repair of the harbor within the limits of the said town, and the Corporation of the town of Belleville have petitioned that an Act be passed to authorize them to pass a by-law or by-laws, for the imposition and collection of harbor dues, rents or tolls upon goods, wares merchandize and chattels shipped on or landed from any vessel or steamboat within the said harbor, and for the imposition and collection of dues or tolls upon logs, timber, pine, cedar and railway ties passing down the River Moira, through the Port of Belleville, for the purpose of enabling them to provide a fund for the payment of debts incurred for the improvement of the said harbor, and for the further improvement of the said harbor from time to time, and the maintenance of the same, and it is expedient to grant the prayer of the said petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Corporation of the town of Belleville are authorized and empowered to pass a by-law or by-laws, for the imposition and collection of harbor dues or tolls, to be employed, after the expenses of collection, for the purpose of assisting in liquidating the debt incurred, or which may hereafter be incurred, in the improvement of the harbor within the limits of the said town, by dredging or otherwise, and to provide a fund for the maintenance and improvement of the said harbor and works connected therewith, on all goods, wares, merchandize and chattels shipped on board, or landed out of any vessel, steamboat, boat, or any other craft within the limits of the said harbor, or elsewhere within the limits of the said Corporation; and upon all logs, timber, pine, cedar and railway ties passing down the River Moira, through or into the Port of Belleville, or through or into the said harbor, and on all vessels, boats and other crafts entering said harbor.

Corporation
of Belleville
may, by by-
law, impose
harbor dues.

And tolls on
timber, &c.

But by-law,
&c., must be
approved by
Governor in
Council.

2. Before any by-law or by-laws, to be passed under the first section of this Act, or any tariff or schedule of fees or dues imposed thereby, shall have any force or effect, the said by-law or by-laws, and the said schedule or tariff, shall be approved by the Governor in Council.

If any person
refuses to pay
tolls, they
may be levied
by seizure and
sale.

3. If any person or persons neglect or refuse to pay the tolls or dues to be imposed or collected under this Act, or any by-law that may be passed under the authority thereof, the said Corporation or their officer, clerk, servant, agent or lessee may seize and detain the goods, wares, merchandize and chattels, logs, timber, pine, cedar and railway ties, on which the same are due and payable, until such tolls or dues are paid; and if the same be unpaid after the space of thirty days after such seizure, the said Corporation or their officer, clerk, servant or lessee, as aforesaid, may sell and dispose of the said goods, wares, merchandize, chattels, logs, timber, pine, cedar and railway ties, or such part thereof as may be necessary to pay the said tolls or dues and the reasonable costs and charges of keeping and selling the same, by public auction, giving ten days' notice thereof, and returning the surplus, if any, to the owner or owners thereof.

Vessels to be
liable for
dues.

4. Every vessel, boat or other craft, on board of which wares, merchandize, chattels, and other things are shipped, or from which they are landed, shall be liable for the dues chargeable against such goods, wares, merchandize, chattels, and other things; and in the event of non-payment thereof, may be detained until payment thereof is made.

Existing
powers of
Corporation
not affected.

5. Nothing in this Act contained shall affect any of the powers given to the said Corporation by any Act now in force, authorizing them to pass by-laws for the regulation and management of the said harbor.

Harbor to be
subject to any
general law.

6. The said harbor and works thereof shall be subject to the provisions of any Act or Acts of the Parliament of Canada, which may be passed hereafter for the construction, improvement, regulation or maintenance of harbors.



34 VIC., CHAP. 8.

An Act to amend the Act thirty-third Victoria, chapter forty, respecting the settlement of the affairs of the Bank of Upper Canada.

[Assented to 14th April, 1871.]

IN amendment of the Act passed in the thirty-third year of Her Majesty's reign, chaptered forty, and intituled, Preamble. 33 V., c. 40.
"An Act to vest in Her Majesty, for the purposes therein mentioned, the property and powers now vested in the trustees of the Bank of Upper Canada ; " Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. A sum not exceeding two hundred and fifty thousand dollars, out of any unappropriated money forming part of the Consolidated Revenue Fund of Canada, is hereby placed at the disposal of the Governor in Council, for the purpose of paying off any claims on the Bank of Upper Canada settled and adjusted under the fourth section of the Act herein above cited, any such payment being made on the certificate of the Treasury Board, that there is ample security for the re-imbursement out of the assets of the bank of the sum so paid for any such claim. \$250,000 may be applied to pay off claims on Bank of U. C. on certain conditions.

2. A detailed account of the sums expended under the authority of this Act, shall be laid before the House of Commons of Canada, during the first fifteen days of the then next Session of Parliament. Accounting clause.

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34 VIC., CHAP. 27.

An Act to prolong, for a certain time, the term allowed for the redemption of rents reserved on certain Indian lands in the Township of Dundee.

[Assented to 14th April, 1871.]

Preamble.

27, 28 V.,
cap. 68.

WHEREAS it is expedient to prolong, for a limited time, the term allowed by the second section of the Act of the Legislature of the late Province of Canada, passed in the session held in the twenty-seventh and twenty-eighth years of Her Majesty's reign, intituled, "*An Act to change the tenure of the Indian lands in the Township of Dundee, in the County of Huntingdon,*" for the redemption of the rents therein mentioned: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

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Sale of lands
to lessee, and
patent to
issue.

2. If any lessee or assignee of a lessee of lands in the said Township of Dundee, for a term exceeding thirty years, desires to acquire by patent a title to such land in fee simple, the Superintendent General of Indian Affairs may make a sale of such lands to such lessee or assignee, for such price as he may deem sufficient, but excepting from the valuation thereof, the increased value arising from the improvements made thereon; and upon payment of the purchase money a patent in fee simple shall issue.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



34 VIC., CHAP. 28.

An Act to authorize the sale of the Oakville Harbor.

[Assented to 14th April, 1871.]

WHEREAS, by an Act of the Legislature of the late Province of Upper Canada, made and passed in the ninth year of the reign of His late Majesty King George the Fourth, chaptered nineteen, William Chisholm, therein mentioned, was authorized to construct a harbor at the entrance of the Sixteen Mile Creek into Lake Ontario, in the Township of Trafalgar, in the then District of Gore, and to erect and build all such needful moles, piers, wharves, erections, buildings and edifices, as should be useful and proper for the protection of the said harbor, and for the accommodation of vessels entering and lying within the same, together with the right to demand or receive tolls, as in the said Act mentioned; And it was by the said Act now in recital, further enacted that the said Act should continue in force for a space of fifty years from the time of the passing thereof, and from thence, to the end of the then next ensuing session of Parliament, at which time the estate, right, title, tolls and rates of the said harbor, together with the piers, wharves, waters and navigation thereof, should vest in his Majesty, His heirs and successors, to and for the public use of the said late Province of Upper Canada, and at the disposition of the Parliament thereof, unless otherwise provided for by any Act of the Legislature, for that purpose, at any time thereafter:

And whereas, under an Act of the Legislature of the late Province of Upper Canada, made and passed in the first year of the reign of His late Majesty King William the Fourth, chaptered twenty-four, and under an Act of the Legislature of the said late Province of Upper Canada, made and passed in the third year of Her Majesty's reign, chaptered fifty, the sum of two thousand five hundred pounds was loaned by the Government of the said Province to the said William Chisholm, for the purpose of the completion of the harbor at Oakville being the same harbor hereinbefore mentioned; And it is, by the last mentioned Act provided, that the said William Chisholm should execute an assignment, by way of mortgage, of the said harbor, and the tolls thereof, to such persons as the Government might appoint, in trust to receive the tolls, and to pay the interest and principal,

Preamble.

Act of Upper
Canada 9 G.
IV., c. 19.
Construction
of Harbor
authorized.

Conditions.

Acts of U.C.
1 W. IV., c.
24, 3 V. c. 50.

Loan for com-
pletion and
conditions.

when the same should become payable as therein mentioned:

Mortgage to the Crown for the loan by Chisholm.

And whereas, in accordance therewith, by indenture bearing date on or about the twenty-sixth day of March, in the year one thousand eight hundred and thirty-one, the said William Chisholm granted, bargained, sold and demised unto John Henry Dunn, Receiver General of the late Province of Upper Canada, the said harbor and premises, and the tolls and profits thereof, to hold to and for the use of His Majesty, His heirs and successors, for the term of nine hundred and ninety-nine years, to secure the repayment of the sum of two thousand five hundred pounds, being the sum mentioned in the last above-mentioned Act:

Debt to the Crown.

And whereas there is now due to Her Majesty, upon the assignment and mortgage given by the said William Chisholm, under the two several Acts hereinbefore lastly above mentioned, large sums of money, for principal and interest thereunder secured:

Harbor would vest in the Crown in 1878 under 9 G. IV., c. 19.

And whereas, under the provisions of the Act first hereinbefore recited, the estate, right, title, tolls, and rates of the said harbor, together with the piers, wharves, waters and navigation thereof, will, at the end of the session of Parliament next ensuing the twenty-fifth day of March, in the year one thousand eight hundred and seventy-eight (being fifty years from the time of the passing of the said first mentioned Act), vest in Her Majesty, Her heirs, and successors, to and for the public use of Canada, and at the disposition of the Parliament thereof, unless otherwise provided for by any Act for that purpose to be enacted:

Sale expedient.

And whereas, it is expedient that the said Oakville Harbor, with its appurtenances and the rights as aforesaid, should be sold and disposed of, and the proceeds applied as hereinafter mentioned:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Harbor and certain rights may be sold by the Crown.

1. Her Majesty may at any time or times hereafter cause to be sold and disposed of, and may grant and convey, upon such terms as to price, payment and security as to the Governor in Council shall seem fit, and by separate sales and conveyances, and to the same or several purchasers as to him may seem most advisable,—1stly, The remainder of the term granted as aforesaid to the said William Chisholm in the said Oakville Harbor and its appurtenances, and the tolls and other rights mentioned in the Acts cited in the preamble, and subject to the provisions and conditions in the said Acts contained, freed of and clear from the principal sum and all interest secured thereupon by the indenture of mortgage hereinbefore mentioned, and of any equity of redemption in respect thereof, and the proceeds of such sale shall be applied to or towards the payment of the principal

The remainder of W. Chisholm's term.

Conditions.

and interest unpaid upon the said indenture, and so much thereof as shall be so applied shall form part of the Consolidated Revenue Fund of Canada, and if any balance of such proceeds be left thereafter, it shall be paid over to the said William Chisholm, his heirs, assigns, or legal representatives,—and 2ndly, The said Oakville Harbor and its appurtenances, and the tolls and other rights and privileges mentioned in the said Acts and granted to the said William Chisholm for the term therein limited, as the same would, at the expiration of the said term, vest in Her Majesty, her heirs and successors, under the provisions of the said Acts; and the proceeds of the said sale shall form part of the said Consolidated Revenue Fund of Canada.

The harbor
itself and
right of toll

2. The tolls to be imposed in respect of the use of the said harbor, piers, wharves, and appurtenances shall, after the expiration of the said term, be from time to time submitted to the Governor, and no toll shall thereafter be collected unless the rate be first approved by the Governor in Council.

Tariff of tolls
to be subject
to approval
by Governor
in Council.

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34 VIC., CHAP. 31.

An Act respecting certain officers of the Trinity House of Quebec.

[Assented to 14th April, 1871.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Part of Act of Canada, 12 V., c. 114, &c., repealed as to certain officers of Trinity House, Quebec.

1. So much of the Act passed by the Legislature of the late Province of Canada in the twelfth year of Her Majesty's reign, chapter one hundred and fourteen, intituled, "*An Act to consolidate the laws relative to the powers and duties of the Trinity House of Quebec, and for other purposes*," as enacts that the offices of clerk and treasurer of the said Corporation shall be held by separate persons, and so much of the said Act, or of any other Act passed by the Legislature of the said late Province of Canada as provides for or requires the appointment of two superintendents of pilots for and below the Harbor of Quebec, or of a bailiff of the Trinity House of Quebec, or prescribes that any duty be performed by such bailiff, and so much of the said Act, or of any other Act of the Legislature of the said late Province, as fixes the salary of any member or officer of the said Corporation, is hereby repealed.

Clerk and Treasurer to be one.

2. The offices of clerk and treasurer of the said Corporation shall hereafter be held by one and the same person, who shall be called the secretary-treasurer of the Trinity House of Quebec, and shall be appointed by the Governor.

Salaries of certain officers to be fixed by the Governor in Council.

3. The salaries of the master of the Trinity House of Quebec, the harbor master of the Harbor of Quebec, the superintendent of pilots for and below the Harbor of Quebec, and the secretary-treasurer of the Trinity House of Quebec, shall be such as the Governor in Council may from time to time appoint, but so as the annual amounts thereof shall not exceed one thousand dollars for the master, twelve hundred dollars for the superintendent of pilots, sixteen hundred dollars for the harbor master, and sixteen hundred dollars for the secretary-treasurer. The wardens, other than the master and the superintendent of pilots shall not be entitled to any remuneration for their services.

Other wardens not to be paid.

4. This Act shall commence and be in force upon, from and after the first day of July next ; but commissions under it to take effect upon, from and after that date, may be issued by the Governor at any time after the passing of this Act, and before its commencement.

Commence-
ment of this
Act.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



34 VIC., CHAP. 33.

An Act to provide for the appointment of a Port Warden for the Harbor of Quebec.

[Assented to 14th April, 1871.]

Preamble.

WHEREAS the increasing trade of the city and business of the Harbor of Quebec render the office of port warden necessary: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Office created.

1. There shall be at the city of Quebec an officer who shall be designated the port warden of the Harbor of Quebec.

Governor in Council to appoint.

2. The appointment to the office shall be made by the Governor in Council on the recommendation of the Board of Trade of Quebec, and the control of the office shall be in the Council of the Board of Trade for the city of Quebec, which shall, in the present year as soon as may be after the passing of this Act, and after this year in the month of April in each year, appoint a board of examiners, five in number, who shall examine all candidates for the office of port warden, or such number of deputy port wardens as the said Council may from time to time deem necessary for the business of the harbor, and upon the recommendation of the said examiners, the Council shall make the appointments of such deputies.

Board of examiners of candidates.

Deputies, how appointed.

Oath of office.

3. The person so appointed to be port warden shall, before acting as such, take and subscribe the following oath of office before some justice of the peace for the district of Quebec, who is hereby empowered to administer the same and who shall have the custody thereof :

Form.

“ I, A. B., do solemnly swear that I will faithfully and impartially, to the best of my judgment and ability, perform the duties of the office of port warden of the Harbor of Quebec, without fear, favor or affection for any person or party whomsoever.”

Fees of Port Warden.

4. The port warden shall receive no fees whatever, other than such as strictly appertain to the business of his office ; all such fees shall be recorded in his books, and he shall

make a certified annual return to the said Council of the Board of Trade, of the receipts and expenses of his office.

5. The port warden, or any deputy port warden, may be removed for misconduct or neglect of duty at the instance or discretion of the Council of the Board of Trade; and the said board of examiners shall make, and when they shall think it necessary, may repeal or amend all such rules and regulations, or by-laws, for regulating the office of port warden, as they may deem from time to time necessary, subject to the approval of the Council of the Board of Trade.

Removal for misconduct.

Regulations to be made.

6. The port warden shall, at his own expense, keep an office always open, on lawful days, from nine a.m., till six p.m., during the season of navigation, and from ten a.m., till two p.m., during the remainder of the year, and shall have a seal of office and the necessary books in which all his acts as port warden, and those of his deputies, with their fees of office, shall be recorded in such manner as the board of examiners shall direct.

Port Warden's office, books, &c.

7. It shall be the duty of the port warden or his deputy, on being notified and requested by any of the parties interested, to proceed in person on board of any vessel for the purpose of examining the condition and stowage of cargo; and if there be any goods damaged on board such vessel, he shall inquire, examine, and ascertain the cause or causes of such damage, and make a memorandum thereof, and enter the same in full on the books of his office.

Duties as to stowage of cargo, &c.

8. The master of any vessel which has broken bulk for the purpose of lightening or other necessary purpose, previous to her arrival in the Harbor of Quebec, shall immediately on the discovery of any damaged cargo, proceed to hold a survey on the same in the manner herein prescribed, before the same shall be moved out of the place in which it was originally stowed; and if, after the arrival in port of any vessel from beyond the seas, which has not had occasion to lighten, break bulk, or otherwise discharge any portion of her cargo before coming into the harbor, the hatches of such vessel shall be first opened by any person not a port warden, and the cargo or any part thereof shall come from on board such ship in a damaged condition, these facts shall be *prima facie* evidence that such damage occurred in consequence of improper stowage or negligence on the part of the persons in charge of the vessel, and such default shall, until the contrary be shown, be chargeable to the owner, master, or other person interested as part owner or master of the said vessel.

Duties of Masters of vessels, having broken bulk before arrival in port.

9. The port warden shall, when required, proceed to inspect any ship, steamer or other vessel, warehouse, dwelling or

Inspecting damaged goods.

wharf, and examine any merchandize, vessel, material, produce or other property, said to have been damaged on board any vessel, and enquire, examine, and ascertain the cause of such damage, make a memorandum thereof, and of such property, and record in the books of his office, a full and correct statement thereof.

Inspecting
vessels having
received dam-
age, &c.

Skilled assis-
tants if neces-
sary.

Repairs.

10. The port warden shall, when required, be surveyor on any vessel which may have suffered wreck or damage, or which shall be deemed unfit to proceed on her voyage; he shall examine the hull, spars, rigging, and all appurtenances thereof, shall specify what damage has occurred, and record in the books of the office a full and particular account of all surveys held on such vessel; he shall call to his assistance, if necessary, in such survey, one or more carpenters, sail-makers, riggers, shipwrights, or other persons skilled in their profession, who shall each be entitled to a fee not exceeding five dollars, to aid him in the examination and survey, but no such surveyor shall be interested in the case; the port warden shall also, if required, be surveyor of the repairs necessary to render such vessel seaworthy, and his certificate that these repairs have been properly made shall be evidence that the vessel is seaworthy.

* * * *

Duties of
masters and
of Port War-
den as to ves-
sels taking
grain in bulk.

12. The master of any vessel intending to load grain in bulk for any port not within the limits of inland navigation nor within the Dominion of Canada shall, before taking in any of such grain, notify the port warden from time to time while the different chambers are being prepared, to survey and inspect the said vessel as well as the dunnage and lining boards; the port warden in such case shall ascertain whether such vessel is in a fit state to receive and carry the cargo intended for her to its destination; he shall record in his books the condition of the vessel; if he finds she is not fit to carry the cargo in safety, he shall state what repairs are necessary to render her seaworthy; before beginning to load each chamber he shall be careful to see that it is properly dunnaged and lined, and provided with shifting boards, and that the board and plank used for these purposes have been properly seasoned; he shall examine the pumps and see that they are properly lined and dunnaged; he shall enter in the books of his office all particulars connected with these surveys, and grant the necessary certificates.

Duties as to
dunnage.

13. It shall be the duty of the port warden when required, to decide what amount of dunnage is necessary below cargo, and also between wheat and other grain, and the flour to be stowed over it, and his certificate that such dunnage has been used, shall be *prima facie* evidence of the good stowage of the cargo so far as these points are concerned.

14. The port warden, if requested by any person having shipped cargo on board of a vessel, and at the expense of such person, shall proceed on board of such vessel and examine whether she is in a fit state to proceed to sea or not ; if she is found unfit the port warden shall state in what particular, and shall notify the master not to leave the port until the required conditions have been fulfilled.

As to seaworthiness of vessels.

15. The port warden shall, when required, estimate the value and measurement of any vessel, when the same is in dispute or otherwise needed, and shall record the same in the books of his office.

Value or measurement of vessels.

16. It shall be the duty of every auctioneer making a sale of any vessel condemned, or ships' materials, or goods damaged on board a ship or vessel, whether sea-going or of inland navigation, sold for benefit of underwriters or others concerned, in the harbor or city of Quebec, to file a statement of the same at the office of the port warden within ten days after such sale ; no underwriters' sale shall take place until after at least two days' public advertisement in not less than two English and one French newspapers in the city of Quebec, and such sale shall not be at an hour earlier than eleven, nor later than three o'clock in the day.

Auctioneers selling vessels, materials &c., to report to Port Warden.

Notice of such sale.

17. It shall be the duty of the port warden, when required in writing by all parties in interest, to hear and arbitrate upon any difficulty or matter in dispute between the master or consignee of any vessel, and any proprietor, shipper or consignee of the cargo, and to keep a record thereof.

Disputes between master and consignee.

18. No goods, vessels or other property shall be sold as damaged for account of underwriters, unless a regular survey and condemnation has previously been had, and the port warden shall in all such cases be one of the surveyors.

Survey before sale of damaged vessel.

19. Before proceeding to act in any case in the performance of his duties, the port warden shall give reasonable notice to all parties interested or concerned in the case.

Notice to parties.

20. All notices, requests, or requirements to or from the port warden, must be given in writing and a reasonable time before action is required.

Time for notice.

21. On the demand of any party interested, the port warden shall furnish certificates in writing, under his hand, of any matters of record in his office ; he shall also furnish, when required, copies of any entries in his books, or documents filed in his office.

Certificates

22. On application, the port warden shall supply, to any master of a vessel arriving in the Port of Quebec, a copy of

Copies of regulations

the regulations relating to the office of port warden, once in each year.

Lloyd's regulations to apply.

23. In all matters regarding surveys, &c., the port warden shall conform to, and be governed by the regulations of Lloyd's, so far as they are applicable to the port of Quebec, and to the circumstances of the case.

Disputes between Port Warden and parties, how decided.

24. Should any dispute arise between the port warden and any party interested, in any case where his presence has been required, either party may appeal to the Council of the Quebec Board of Trade, and it shall be the duty of the secretary of the said Board of Trade, on a requisition being presented to him to that effect, to summon forthwith a meeting of the said Council who, or not less than three of them, shall immediately investigate and report on the case submitted to them, and their determination or that of a majority of them, made in writing, shall be final and conclusive.

Costs, how fixed, &c.

25. The party against whom the Council of the Board of Trade decide shall pay all the expenses, and the Council shall determine the amount of fees or charges payable in each case, which shall never exceed twenty dollars.

Certificates to be evidence.

26. All certificates issued under the hand of the port warden or his deputy, and sealed with the seal of his office, referring to matters recorded in his books, shall be received as *prima facie* evidence of the existence and contents of such record, in any court in Canada.

Tariff of fees.

27. The Council of the Board of Trade for the city of Quebec may, from time to time, establish a tariff of fees to be paid to the port warden for services performed by him and his deputies, by the masters or owners of sea-going vessels, and by others in respect of whom the duties of the said port warden are required to be performed; which tariff, being first approved by the Governor in Council, shall be in force until repealed or altered by the said Governor in Council, or by the said Council of the Board of Trade, as it may be at any time, with the approval of the Governor in Council; but such fees shall not exceed the rates hereinafter mentioned, that is to say:—

Maximum fees.

For survey and certification.

1. For every survey and the certificate thereof by the port warden and his assistant, of the hatches and cargo of any vessel, or of the hull, spars and rigging thereof, or the survey of damaged goods, a fee, including the certificate thereof, not exceeding eight dollars each, and such further sum, not exceeding five dollars, as may be payable to shipwrights or other skilled persons employed by him;

For valuation and inspection.

2. For every valuation of a vessel for average, and every inspection of a vessel intended to load, a fee to be graduated

according to the tonnage of such vessel, but not in any case to exceed ten dollars ;

3. For hearing and settling disputes of which the port warden is authorized to take cognizance, and for the fees on appeal to the Council of the Quebec Board of Trade, a sum to be graduated according to the value of the thing or the amount in dispute, but in no case to exceed twenty dollars ;

For settling disputes.

4. The foregoing maximum rates, comprehending the fees for the incidental proceedings, certificates and copies, may be altered and apportioned, and the particular service distinguished, and the fee therefor assigned, and the person by whom the same shall be paid, may be indicated in such way as the Council of the Board of Trade may from time to time appoint ; and all rates and fees so established shall be subject to the approval of the Governor in Council, who shall have power from time to time to reject or modify and alter such fees and rates.

Fees may be altered and apportioned.

Must be approved by Governor in Council.

28. The Council of the Board of Trade may, if they see fit, at any time, fix and appoint a salary to the port warden, to include his own remuneration and that of his deputies and his expenses of office or otherwise, as may be arranged ; and for any period during which the port warden shall be paid by salary, such balance as may appear by his certified annual return, to be in his hands over and above his salary (or over and above his salary, that of his deputies and his expenses of office, if the same are not included in his salary), shall be forthwith paid by the said port warden to such person as the Board of Trade shall depute to receive the same.

Board of Trade may fix salary.

29. The penalty for any and every infraction or breach of the twelfth section of this Act, shall be the sum of forty dollars ; and for every infraction or breach of the sixteenth section of this Act, the sum of twenty dollars ; and any and every such penalty, as aforesaid, shall be recoverable in the manner prescribed by "*The Interpretation Act.*" in cases where penalties are imposed, and the recovery is not otherwise provided for.

Penalties for contravention of this Act.

30. The port warden shall keep such books and accounts, and shall report yearly to such department or officer, and at such time in each year, and in such form, and with such accounts and details, as the Governor may, from time to time, direct.

Books, &c., and yearly report.



34 VIC., CHAP. 34.

An Act further to amend the Acts respecting the improvement and management of the Harbor of Quebec.

[Assented to 14th April, 1871.]

Preamble.

WHEREAS the power of the Quebec Harbor Commissioners of borrowing sums of money and issuing debentures is limited by the fourth section of the Act of the Parliament of Canada, thirty-one Victoria, chapter seventy-nine, to the amount of eight hundred thousand dollars in the whole, and whereas they have issued such debentures to the amount of six hundred and eighty-four thousand six hundred dollars; and whereas the said Commissioners have, by their petition, represented that it would be favorable to the reduction of the rate of interest payable by the said Commissioners, if they were authorized to issue, out of the amount they are authorized to issue as before mentioned, preferential bonds or debentures for an amount not exceeding one hundred thousand dollars at a rate not exceeding six per cent. per annum; and whereas it is expedient to grant the prayer of the said petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Commissioners may issue debentures for \$100,000 at 6 per cent.

Proviso, for approval by bondholders.

1. The said Commissioners are hereby authorized to issue, under the hands of three of the said Commissioners, debentures to be countersigned by the secretary of the said Corporation, for a sum not exceeding in the aggregate one hundred thousand dollars, and to make the same payable to the bearer thereof, for such amounts, and at such time, as may be agreed on, with interest payable semi-annually, not exceeding six per cent. per annum, with coupons for such interest annexed, signed by one of the Commissioners, and countersigned by the said secretary, and such debentures may be recalled and others issued in their stead, as aforesaid, with coupons: Provided that no such issue of preferential debentures shall take place, before such issue has been duly approved by a majority of the bondholders of the said Corporation, present at a special general meeting of the said bondholders called for that purpose by the said Quebec Harbor Commissioners.

2. The said debentures and coupons to be issued under the preceding section, shall be paid out of the revenue arising from the dues, tolls, duties and other revenues and profits collected and received by the said Commissioners, and shall rank immediately after the payment of expenses of collection and other prior charges authorized by law, but shall have precedence over the other debentures and coupons of the said Corporation.

Such debentures to be preferential.

3. The said Commissioners are also authorized to issue certificates to replace the coupons or part of the coupons for arrears of interest on the debentures previously issued, which certificates shall be binding in the same manner as the coupons so replaced, but shall create no privilege or preference.

Certificates in place of unpaid coupons of former debentures.

4. Nothing in this Act contained shall affect or diminish any rights of any existing creditors of the Corporation other than a bondholder as aforesaid, or any right of any bondholder founded on any judgment obtained or on any suit pending before the passing of this Act.

Existing rights saved.

5. This Act shall be construed as one Act with the Act of the Parliament of the late Province of Canada, twenty-two Victoria, Chapter thirty-two, intituled, "*An Act to provide for the improvement and management of the Harbour of Quebec*," and the Acts amending the same.

This Act to be one with 22 Vic., c. 32,



34 VIC., CHAP. 35.

An Act to extend the provisions of the Act authorizing the imposition and collection of Harbor Dues by the Corporation of the Town of Owen Sound.

[Assented to 14th April, 1871.]

Preamble.
Act of Can-
ada 24 V., c.
63.

WHEREAS, by an Act passed by the Legislature of the late Province of Canada, in the twenty-fourth year of Her Majesty's reign, chapter sixty-three, intituled, "*An Act to authorize the Corporation of the Town of Owen Sound to impose and collect certain tolls, and for other purposes*," the said Corporation is empowered to pass by-laws for the imposition and collection of certain tolls in the said Act specified ; and whereas, by a proviso to the first section of the said Act, it is provided that the power to collect such tolls shall cease in ten years after the passing of the said Act, and it is expedient to extend the time for such collection : Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Time for im-
posing tolls
extended.

1. The said proviso shall be and is hereby repealed, and the time for such imposition and collection of tolls shall be extended and continued for a period of twenty years from and after the passing hereof.

Works to be
subject to
any general
law. Tolls
may be
revised.

2. The said harbor and the works thereof shall be subject to the provisions of any Act or Acts of the Parliament of Canada, which may be passed hereafter for the construction, improvement, regulation or maintenance of harbors ; and the tariff of tolls in the said Act mentioned, shall be subject to the revision and approval, from time to time, of the Governor General in Council.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



34 VIC., CHAP. 36.

An Act to authorize the incorporated Village of Trenton to impose and collect Harbor Dues, and for other purposes.

[Assented to 14th April, 1871.]

WHEREAS the Village of Trenton has incurred large ex- Preamble,
pense in the building of piers, in the making of booms,
and other improvements in the harbor within the limits of
the said village, and the Corporation of the said village have
petitioned that an Act be passed to authorize them to pass
a by-law or by-laws for the imposition and collection of
harbor dues, rents or tolls upon goods, wares, merchandize,
or chattels shipped on or landed from any vessel or steam-
boat within the said harbor, and for the imposition and col-
lection of dues or tolls upon saw-logs, sawn lumber, square
lumber, square and round timber, cedar, railway ties, hoop
and hop poles, floats of all kinds, barrel heading, wood, long
or short, staves and stave bolts, coming down the River
Trent within the limits of the said Corporation, for the pur-
pose of enabling them to provide a fund for the purpose of
further improving said piers, booms, and otherwise improv-
ing the said harbor as may be required from time to time
for the maintenance of the same, and it is expedient to
grant the prayer of the said petition : Therefore Her Ma-
jesty, by and with the advice and consent of the Senate and
House of Commons of Canada, enacts as follows :—

1. The Corporation of the incorporated village of Trenton Power to im-
is hereby authorized and empowered to pass a by-law or pose tolls
by-laws for the imposition and collection of harbor dues or for certain
tolls, to be employed, after the expense of collection, for the purposes.
purpose of assisting in repairing booms, piers, and other
necessary repairs to improve the said harbor within the
limits of the said incorporated village, and to provide a fund
for the maintenance and improvement of the said harbor
and works connected therewith, on all goods, wares, mer-
chandize and chattels shipped on board of or landed from
any vessel, steamboat or any other craft within the limits
of the said harbor, or elsewhere within the limits of the said
Corporation, and upon all saw-logs, sawn timber, square and
round timber, cedar, railway ties, hoop and hop poles, floats
of all kinds, barrel heading, wood, long or short, staves and

stave bolts coming down the River Trent, within the said Corporation.

Subject to approval by Governor in Council.

2. Before any by-law or by-laws to be passed under the first section of this Act, or any tariff or schedule of fees or dues imposed thereby, shall have any force or effect, the said by-law or by-laws and the said schedule or tariff shall be approved by the Governor in Council.

Power to enforce payment, by sale of articles subject to toll.

3. If any person or persons neglect or refuse to pay the tolls or dues to be imposed under this Act, or any by-law that may be passed under the authority thereof, the said Corporation or their officer, clerk, servant, agent, or lessee, may seize and detain the goods, wares, merchandize and chattels, saw-logs, sawn lumber, square and round timber, cedar, railway ties, hoop and hop poles, floats of all kinds, barrel heading, wood, long or short, staves and stave bolts, on which the same are due and payable, until such tolls or dues are paid; and if the same be unpaid after the space of thirty days after such seizure, the said Corporation, or their officer, clerk, servant or lessee as aforesaid, may sell and dispose of the said goods, wares, merchandize, chattels, saw-logs, sawn lumber, square and round timber, cedar, railway ties, hoop and hop poles, floats of all kinds, barrel heading, wood, long or short, staves and stave bolts, or such part thereof as may be necessary to pay the said tolls or dues, and the reasonable cost and charges of keeping and selling the same by public auction, giving ten days' notice thereof, and returning the surplus, if any, to the owner or owners thereof.

Vessel to be liable.

4. Every vessel, boat, or other craft on board of which wares, merchandize, chattels, and other things are shipped, shall be liable for the dues chargeable against such goods, wares, merchandize, chattels and other things, and in the event of non-payment thereof, may be detained until payment thereof is made.

Certain powers of Corporation not affected.

5. Nothing in this Act contained shall affect any of the powers given to the said Corporation by any Act now in force, authorizing them to pass by-laws for the regulation and management of the said harbor.

Works to be subject to any general Acts.

6. The said harbor and works thereof shall be subject to the provisions of any Act or Acts which may be passed hereafter, for the construction, improvement, regulation, or maintenance of harbors.



35 VIC, CHAP. 5.

An Act to amend the Act 34 Victoria, chapter 3, respecting the Loan for paying a certain sum to the Hudson's Bay Company.

[Assented to 14th June, 1872.]

IN amendment of the Act passed in the thirty-fourth year of Her Majesty's reign, intituled, "*An Act respecting the Loan authorized by the Act 32 and 33 Vic., cap. 1, for the purpose of paying a certain sum to the Hudson's Bay Company,*" and to the end that the said Act may express more clearly the intention of Parliament in passing it; Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

I. * * * *

And the fifth clause of the said first section is hereby so amended as to read as follows:—

"The annual sums for the sinking fund shall be remitted to the Treasury of the United Kingdom by equal half yearly payments, in such manner as the said Treasury may from time to time direct, and for the investment and accumulation thereof, under the direction of the said Treasury, in the names of four trustees nominated from time to time, two by the said Treasury, and two by the Government of Canada, and the investment and application of the said sinking fund shall be made in the manner provided by '*The Canada (Rupert's Land) Loan Act, 1869,*' hereinbefore cited."

And the Act hereby amended, shall have effect as if the said clauses had been worded as aforesaid at the time of its being passed.

Preamble.
34 Vic., c. 3.

Clause 5 of
sec. 1 amend-
ed.

Effect of
amendment.



35 VIC., CHAP. 36.

An Act to amend the Act, Chapter 47 of the Consolidated Statutes for Upper Canada, intituled, "*An Act respecting Rivers and Streams.*"

[Assented to 14th June, 1872.]

Preamble.

WHEREAS it is expedient to amend the Act chaptered forty-seven of the Consolidated Statutes for Upper Canada, intituled, "*An Act respecting Rivers and Streams,*" by bringing under the operation thereof the River Sydenham, in the Province of Ontario: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Section 1 of
U. S., U. C.,
Cap. 47,
amended.

1. The first section of the hereinbefore cited Act shall hereafter be read and interpreted as if the words "the River Sydenham," were inserted in the fifth line of the said first section, after the word "Thames."

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35 VIC., CHAP. 40.

An Act for imposing Tonnage Dues and Wharfage Rates,
to meet the cost of improving the navigation of the
St. Lawrence between Montreal and Quebec.

[Assented to 14th June, 1872.]

HER Majesty, by and with the advice and consent of the Preamble.
Senate and House of Commons of Canada, enacts as
follows :—

1. In order to make good to the Consolidated Revenue Fund the sum voted by Parliament in the present Session, to be expended under the superintendence of the Department of Public Works, for improving the navigation of the River St. Lawrence between Quebec and Montreal, a sum as nearly equal as may be found practicable, to the interest at five per cent. per annum on the sum so voted, and one per cent in addition to form a sinking fund for paying off the said sum, shall be raised one half by tonnage dues on sea going vessels entering or leaving the harbor of Montreal from or to ports beyond the limits of the Dominion of Canada, and drawing sixteen feet of water or upwards, and for each time they so enter or leave,—and one-half by the addition of an equal percentage on all the wharfage rates now payable on goods landed, shipped or deposited in the said harbor; and such tonnage dues and percentage shall be fixed from time to time by the Governor in Council, and levied and collected by the Harbor Commissioners, with the assistance of the Collector of Customs, in like manner with the wharfage rates now payable, and shall be paid over from time to time by the Commissioners to the Receiver General; for the purpose aforesaid.

Such tonnage
dues and
wharfage
rates may be
imposed, and
to what
amount.

How imposed
and collected.

2. The tonnage dues and additional wharfage rates mentioned in the next preceding section, shall be levied from and after the first day of January next, and not before.

When to
commence.



35 VIC., CHAP. 41.

An Act to extend the Acts 32-33 Vict., Cap., 40, and 33 Vict., Cap. 20, to the Port of Collingwood.

[Assented to 14th June, 1872.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

32, 33 V., c.
40, and 33 V.,
c. 29, ex-
tended to Col-
lingwood.

I. The Act passed in the session held in the thirty-second and thirty-third years of Her Majesty's reign, intituled, "*An Act to provide means for improving the Harbors and Channels at certain Ports in the Provinces of the Dominion*," as amended by the Act passed in the thirty-third year of Her Majesty's reign, intituled, "*An Act to amend and extend the Act to provide means for improving the Harbors and Channels at certain Ports in the Provinces of the Dominion*," shall be and is hereby extended and shall apply to the port of Collingwood, in the Province of Ontario, as fully in all respects as to the ports and harbors mentioned in the said Acts.

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35 VIC., CHAP. 42.

An Act to provide for the appointment of a Harbor Master for the Port of Halifax.

[Assented to 14th June, 1872.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. In the construction, and for the purposes of this Act (if not inconsistent with the context or subject matter), the following terms shall have the respective meanings herein-after assigned to them, that is to say,—

“Ship” shall include every description of vessel used in navigation, not propelled by oars.

“Master” shall include every person (except a pilot) having command or charge of a ship.

2. The Governor in Council may, from time to time, appoint a fit and proper person to be harbor master for the port of Halifax, in the Province of Nova Scotia.

3. Every harbor master appointed under this Act shall be under the control of the Minister of Marine and Fisheries, to whom he shall furnish a report in writing and on oath, as soon as possible after the thirty-first day of December in each year, of his doings in office, and of the fees of office received by him during such year.

4. The rights, powers and duties of the Harbor Master for the port of Halifax shall be such as may, from time to time, be conferred and imposed upon him, by rules and regulations made by the Governor in Council, for the government of his office and of the port of Halifax, and for his remuneration, which rules and regulations the Governor in Council is hereby authorized and empowered to make, and from time to time to alter, amend or repeal.

5. The harbor master for the port of Halifax shall furnish copies of the rules and regulations made under the next preceding section of this Act, in force from time to time, to every licensed pilot of the port of Halifax, who

Interpreta-
tion.

Appointment
of Harbor
Master.

To report to
Minister of
Marine and
Fisheries.

His powers,
to be such as
may be given
under regula-
tions.

Copy of regu-
lations to each
Pilot.

shall give one of such copies to the master of every ship which he shall take in charge.

Prosecutions
for contra-
vention.

6. It shall be the duty of the harbor master of the port of Halifax, to prosecute every person violating any rules or regulations made by the Governor in Council under this Act.

* * * * *

Balance over
salary to be
paid into
Consolidated
Revenue
Fund.

8. The harbor master of the port of Halifax shall pay over as soon as possible after the thirty-first day of December in each year to the Receiver-General to form part of the Consolidated Revenue Fund, towards making good any sums which may be appropriated by Parliament for the payment of expenses in connection with the office of harbor master, and for the improvement of the harbor of Halifax, all moneys received by him for fees under this Act during such year, after deducting therefrom the sum of one thousand six hundred dollars for his own remuneration; and if the moneys received by him for fees in any year amount to a less sum than one thousand six hundred dollars, then such less sum shall be his remuneration for that year.

* * * * *

Accounts to
be kept by
Harbor
Master.

10. The harbor master of the port of Halifax shall keep a book in which he shall enter from day to day the name of every ship, not exempt from the payment of fees under this Act, entering the port of Halifax, the name of her master, her registered tonnage, the date of her entering the port, and the sum, if any, received by him for his fee on her entering, under this Act; and such book shall be at all times during office hours, open and free for inspection by any person, on demand, without fee or reward.

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36 VIC., CHAP. 10.

An Act to add to the number of the Members of the Corporation of the Trinity House of Quebec, and to increase the powers thereof.

[Assented to 3rd May, 1873.]

WHEREAS it is desirable that the number of the mem- Preamble.
bers of the Corporation of the Trinity House of Quebec should be increased from nine to fourteen, and that such last mentioned number should be reduced to thirteen on the first occurrence of a vacancy among the wardens appointed by the Governor, not being wardens *ex-officio*, and that four of such thirteen or fourteen members should be elected by the Council of the Quebec Board of Trade: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. After the commencement of this Act, the Trinity House of Quebec shall consist of a master and thirteen (to be reduced as and when hereinafter mentioned to twelve) wardens, that is to say, the harbor master of Quebec for the time being, the superintendent of pilots for and below the Harbor of Quebec for the time being, and the chairman of the Board of Directors of the Corporation of Pilots for and below the Harbor of Quebec for the time being, who shall be wardens, *ex-officio*, and ten (to be reduced as and when hereinafter mentioned to nine), other wardens appointed or elected as hereinafter mentioned. Members of the corporation.

2. Within fourteen days after the commencement of this Act the Council of the Quebec Board of Trade shall elect four persons to be, with the said harbor master and superintendent of pilots and chairman of the Board of Directors of the Corporation of Pilots, and the other six wardens appointed by the Governor, then in office, the first wardens of the Trinity House of Quebec under this Act; and the names of the persons so elected shall be forthwith, after such election, certified to the Minister of Marine and Fisheries, under the seal of the Quebec Board of Trade; and in case the Council of the Board of Trade shall refuse, or shall for such fourteen days neglect to make such election of such four persons, and to certify the names of such four Appointment and election of members of the Corporation.

persons as aforesaid, the Governor may within thirty days after the expiration of such fourteen days, appoint four persons to make up the full number of the said wardens; and in case any person elected as aforesaid shall refuse to accept the office, the Governor may appoint in the place of the person so refusing some other person to be a warden of the Trinity House of Quebec.

Mode of filling vacancies.

3. Every vacancy happening from time to time among the wardens of the Trinity House of Quebec appointed by the Governor, not being Wardens so appointed by reason of the refusal or neglect of the Council of the Quebec Board of Trade, or the refusal to accept office hereinbefore mentioned, except the first vacancy which shall happen after the commencement of this Act, which shall not be filled up at all, and after the occurrence of which the Trinity House of Quebec shall consist only of a master and twelve wardens, shall be filled up by the Governor; and every other vacancy shall be filled up by the Council of the Quebec Board of Trade, and the name of the person elected to fill any such vacancy shall be forthwith, after his election, certified to the Minister of Marine and Fisheries, under the seal of the Quebec Board of Trade.

Governor may appoint on neglect or refusal to fill up or accept office.

4. In case the Council of the Quebec Board of Trade refuses, or for fourteen days after having been required so to do by the Minister of Marine and Fisheries, neglects to fill up any vacancy happening from time to time among the wardens elected by the said Council or appointed by the Governor by reason of their refusal or neglect or the refusal to accept office hereinbefore mentioned, and to certify the name of the person elected to fill such vacancy,—the Governor may appoint a person to fill such vacancy; and in case any person elected to fill a vacancy as aforesaid shall refuse to accept the office, the Governor may appoint in the place of the person so refusing some other person to fill such vacancy.

Appointments by Governor to be under Great Seal.

5. Every appointment by the Governor under this Act shall be made by an instrument under the Great Seal of Canada.

As to salaries &c.

6. The wardens of the Trinity House of Quebec, other than the harbor master and the superintendent of pilots, shall not be entitled to any remuneration for their services.

Judicial powers of T. H. Q.

7. In case a ship under the charge of a pilot for and below the Harbor of Quebec meets with an accident in the port of Quebec, the Trinity House of Quebec may, if they see fit cause for doing so, on the complaint of the master, owner or consignee of such ship, or of any other interested party, against such pilot, investigate the matter; and the com-

plaint in such case shall be made in the manner and within the time prescribed by section seventy-six of the Act of the Legislature of the late Province of Canada, passed in the twelfth year of Her Majesty's reign, chapter one hundred and fourteen.

Complaints
how brought.

8. Nothing in this Act shall be construed to constitute the Trinity House of Quebec a new corporation, or to require that any member or officer of the same, being such at the time of the commencement of this Act, should receive a new appointment; and the members of the said Corporation under this Act, whether elected or appointed, and their successors elected or appointed from time to time as required by this Act, shall be and be deemed to be the successors of the members of the said Corporation under the Acts constituting and continuing the same.

Corporation
heretofore
existing to
continue.

9. Any five and not less than five, of the members of the said Corporation shall be a quorum thereof—and sections five and six of the Act of the Legislature of the late Province of Canada passed in the twelfth year of Her Majesty's reign, chapter one hundred and fourteen, shall be read and construed as if the word "five" occurred in lieu of the word "three" in the second line of each of the said sections.

Quorum.
12 V., c. 114,
ss. 5, 6
amended.

10. So much of the second section of the Act cited in the next preceding section of this Act as enacts that the Trinity House of Quebec shall consist of a master, deputy master and seven wardens, or of a master and eight wardens, is hereby repealed.

12 V., c. 114,
s. 2, subsect.
4 repealed
in part.

11. This Act shall not come into operation until the first day of January, one thousand eight hundred and seventy-four, which day is in this Act referred to as the commencement of this Act.

Commence-
ment of Act.



36 VIC., CHAP. 11.

An Act to amend the Acts relating to Port Wardens
at Montreal and Quebec.

[Assented to 3rd May, 1873.]

Preamble.

26 V., c. 52.

29 V., c. 59,

(Prov. of
Can.)

Canada,

34 V., c. 33.

IN further amendment of the Act passed by the Legislature of the late Province of Canada, in the twenty-sixth year of Her Majesty's reign, chapter fifty-two, "*To provide for the appointment of a Port Warden for the Harbor of Montreal*;" and in amendment of the Act passed by the same Legislature, in the twenty-ninth year of Her Majesty's reign, chapter fifty-nine, amending the same; and also in amendment of the Act passed by the Parliament of the Dominion of Canada, in the thirty-fourth year of Her Majesty's reign, "*To provide for the appointment of a Port Warden for the Harbor of Quebec*,"—Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

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QUEBEC.

No clearance
from Quebec
to any vessel
loaded with
grain without
certificate
from Port
Warden.

3. No officer of Customs shall grant a clearance to any vessel wholly or partly laden with grain, for the purpose of enabling her to leave the port of Quebec for any port not within the limits of inland navigation, nor within the Dominion of Canada, unless nor until the master of such vessel produces to him a certificate from the port warden or his deputy, to the effect that all the requirements of the twelfth section of the Act thirdly cited in the preamble of this Act have been fully complied with, if such grain be laden in bulk; nor unless or until such master produces to him a certificate from the port warden, or his deputy, that all the requirements of the said Act, as hereby amended, have been fully complied with, if such vessel be wholly or partly laden with grain, otherwise than wholly or partly in bulk; and if any vessel, wholly or partly loaded with grain attempts to leave the port of Quebec for any port not within the limits of inland navigation, or within the Dominion of Canada, without a clearance, any officer of Customs, or any person acting under the direction of the Minister of Marine and Fisheries, or the chief officer of the river police, may detain such vessel until such certificate is produced to him.

Vessel at-
tempting to
leave may be
detained.

4. So much of the twenty-ninth section of the Act thirdly cited in the preamble of this Act as imposes a penalty of forty dollars for any and every infraction or breach of the said twelfth section of the said Act is hereby repealed, and the penalty for any and every infraction or breach of the said twelfth section of the said Act shall be eight hundred dollars.

34 V., c. 33, s. 29 amended. Penalty increased.

GENERAL PROVISIONS.*

5. The fourteenth section of the Act first cited, and the fourteenth section of the Act thirdly cited in the preamble of this Act, are hereby repealed, and the following section substituted for the same, as the fourteenth section of each of the said Acts, respectively :—

S. 14 of 26 V., c. 52, and s. 14 of 34 V., c. 33, repealed and new section substituted.

“ The master of any vessel wholly or partly laden with grain for any port not within the limits of inland navigation, shall, before proceeding on his voyage, or clearing at the Custom house for the same, notify the port warden, whose duty it shall then be to proceed on board such vessel, and examine whether she is in a fit state to proceed to sea or not; if she is found unfit, the port warden shall state in what particulars, and on what conditions only she will be deemed in a fit state to leave, and shall notify the master not leave the port until the required conditions have been fulfilled; and in case of the master refusing or neglecting to fulfil the same, the port warden shall notify the collector of Customs, in order that no clearance may be granted for the vessel until such required conditions have been fulfilled, and a certificate thereof granted by the port warden or his deputy.”

Notice to Port Warden and by him to Collector.

6. The port warden at either of the ports aforesaid, may in any case where he thinks it right and necessary, initiate proceedings, and hold surveys, and obtain process, as if required by the parties concerned under the provisions of the Acts cited in the preamble of this Act; and whenever the port warden is mentioned in any provision of any of the said Acts, or in this Act, such provision shall always be understood to apply to the deputy port warden.

Port Warden may initiate proceedings without being called upon.

7. The whole of any pecuniary penalty imposed by this Act, or by the Acts hereinbefore cited, or any of them, shall belong to the Crown, and shall be paid over to the Receiver General, by the officer or person receiving it, and shall be appropriated in such manner as the Governor General in Council may direct; anything in the said Acts, or any of them to the contrary notwithstanding,

Application of penalties under this Act or the Acts amended.

* Ss. 5, 6 and 7 are repealed as to the harbor of Montreal by 45 Vic., c. 45, s. 1.



36 VIC., CHAP. 12.

An Act to amend the Act to provide for the appointment of a Harbor Master for the Port of Halifax.

[Assented to 3rd May, 1873.]

Preamble.
35 V., c. 42.

IN amendment of the Act passed in the thirty-fifth year of Her Majesty's reign, chapter forty-two, intituled, "*An Act to provide for the appointment of a Harbor Master for the Port of Halifax*," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

S. 4 amended; Governor in Council may impose penalties for breach of regulations.

1. The Governor in Council may, in and by any rule or regulation made under the fourth section of the said Act, impose any reasonable penalty, not exceeding in any case one hundred dollars, for the breach of such rule or regulation, with, in case of a continuing breach, a further penalty not exceeding in any case ten dollars for every twelve hours during which such breach continues; but so that no such rule or regulation shall impose a minimum penalty: and every breach of any such rule or regulation shall be deemed a contravention of the said Act, and every such penalty shall be held to be a penalty imposed by this Act.

Interpretation.

2. This Act and the said Act shall be read and construed as forming together one Act.

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36 VIC., CHAP. 45.

An Act to amend the Act respecting the construction
of the Intercolonial Railway.

[Assented to 23rd May, 1873.]

WHEREAS it is expedient to amend the Act passed in the Preamble.
thirty-first year of Her Majesty's reign, chapter thir-
teen, intituled, "*An Act respecting the construction of the*
Intercolonial Railway;" and to provide for a change and
alteration of the gauge of the said Intercolonial Railway,
and other Government Railways in New Brunswick and
Nova Scotia: Therefore Her Majesty, by and with the
advice and consent of the Senate and House of Commons of
Canada, enacts as follows:—

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2. It shall also be lawful for the Governor in Council to
authorize and permit that a third rail be laid on the said Or allow a
third rail.
Intercolonial Railway or on any of the other Government
Railways in New Brunswick or Nova Scotia, or on any part
or portion of any or all of the said railways.

3. This Act shall be construed as forming part of the Construing
Act.
above recited Act.

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Excellent Majesty.



35 VIC., CHAP. 55.

An Act respecting Wreck and Salvage.

[Assented to 23rd May, 1873.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

* * * * *

New section substituted for s. 98 of Act of Province of Canada, 12 V., c. 114.

38. Section ninety-eight of the Act of the Legislature of the late Province of Canada, passed in the twelfth year of Her Majesty's reign, and intituled "*An Act to consolidate the laws relative to the powers and duties of the Trinity House of Quebec, and for other purposes,*" is hereby repealed, and the following substituted in its stead, and shall be read and construed as the ninety-eighth section of the said Act :—

As to effects found in Port of Quebec.

"**98.** Every person finding any spars, deals, saw-logs or timber or other non-perishable thing, not being wreck within the meaning of this Act, in the River St. Lawrence, or any river or water within the port of Quebec, or on the beach thereof, shall, within four days, if the same be found within the harbor of Quebec, and within fifteen days if the same be found within any other part of the port of Quebec, give notice thereof to the harbour master, under a penalty not exceeding forty dollars; and shall in such notice give him a description of the thing found, with all the marks thereon; if, in the meantime, the master or owner claims the same he shall pay to the finder for his trouble such remuneration as may be fixed by the Trinity House of Quebec; and the said Trinity House of Quebec may make and publish a tariff of salvage for deals, saw-logs and timber, found as aforesaid, and any person being in possession of any deals, saw-logs and timber found adrit, or on the beach of the said river or such water as aforesaid, shall, immediately upon the owner or the agent claiming the said property and tendering the sum fixed in such tariff as the salvage in the case, deliver up the said property to the said master or owner thereof, or his agent; and any person refusing so to deliver any such spars, deals, saw-logs or timber, or other non-perishable thing shall incur a penalty not exceeding four hundred dollars, nor less than twenty dollars, for such refusal, which shall be deemed a contravention of

this Act; and any suit for the said penalty may be heard and determined by the said Trinity House, under sections sixty-six and sixty-seven of this Act."

39. The Act of the Legislature of the late Province of Canada, passed in the twenty-second year of Her Majesty's reign, and intituled, "*An Act to extend the powers and duties of the Trinity House of Quebec*," and the seventh section of the Act of the said Legislature passed in the session thereof held in the fourteenth and fifteenth years of Her Majesty's reign, intituled, "*An Act to provide for defraying the expense of the River Police at Quebec*," and the fifth section of the Act of the said Legislature, passed in the session thereof held in the twenty-ninth and thirtieth years of Her Majesty's reign, intituled, "*An Act to extend the powers of the Trinity House of Quebec*," shall not hereafter apply to any effects, article or thing, being "wreck" within the meaning of this Act; nor shall the Act of the said Legislature passed in the session thereof, held in the twenty-seventh and twenty-eighth years of Her Majesty's reign, and intituled, "*An Act to amend the Act passed in the twelfth year of Her Majesty's reign, relating to the Trinity House at Montreal*," or the Act of the Parliament of Canada, passed in the session thereof, held in the thirty-second and thirty-third years of Her Majesty's reign, and intituled, "*An Act to amend the Act of the late Province of Canada, twelfth Victoria, chapter one hundred and fourteen, 'To consolidate the laws relative to the powers and duties of the Trinity House of Quebec, and for other purposes.'*" prevent or interfere with the provisions of this Act for the protection of life and property in wrecked vessels or any powers of the receiver for the district including the city of Quebec, or the city of Montreal, under this Act; and the powers vested in the said Trinity Houses by the said Acts, shall be exercised only by and with the consent of the said receivers respectively, and in conjunction with either of them, if necessary to give effect to the said Acts and this Act.

Certain Canadian enactments not to apply to wreck, or to interfere with the operation of this Act.
 22 V., c. 31.
 14, 15 V., c. 25.
 29, 30 V., c. 58.
 27, 28 V., c. 58.
 32, 33 V., c. 42.

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36 VIC , CHAP. 60.

An Act to make further provision for the improvement of the River St. Lawrence between Montreal and Quebec.

[Assented to 23rd May, 1873.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Loan of
\$1,500,000
authorized
towards the
cost of the
said improve-
ment.

1. It shall be lawful for the Governor in Council to raise by way of loan such sum not exceeding one million five hundred thousand dollars, as may, with any other sums voted by Parliament for the same purpose, be requisite to defray the expense of completing the ship channel in Lake St. Peter and the River St. Lawrence to the depth of not less than twenty-two feet at low water, and a width of not less than three hundred feet, from Montreal to the tide water above Quebec; such loan to be raised by the issue of debentures bearing interest payable half yearly at the rate of five per cent. per annum and redeemable in forty years.

How the work
shall be per-
formed.

2. The work mentioned in the next preceding section, shall be performed under the superintendence of the Department of Public Works, either by the Harbor Commissioners of Montreal, under such arrangements as the Minister of Public Works may make with them, with the approval of the Governor in Council, or in such other manner as the Governor in Council may see fit; and the interest on the sums raised as aforesaid and expended on the said work, at the rate of five per cent. per annum, and a sinking fund at the rate one per cent. per annum, shall be paid to the Receiver General by the said Harbor Commissioners out of the tolls, rates and dues levied by them in the Harbor of Montreal; the said interest shall be payable from the date of such expenditure, but the said payment to the sinking fund shall commence and be reckoned only from the first day of July, one thousand eight hundred and seventy-eight; and the said interest and contribution to the sinking fund, shall be payable at such periods in each year as the Governor in Council may from time to time direct.

Interest and
sinking fund
to be paid out
of harbor dues
at Montreal.

When to
commence.

The same on
other sums
voted for the
like purpose.

3. A like rate of interest and sinking fund, to commence and be payable respectively at the like times and periods, as

are mentioned in the next preceding section, shall be paid to the Receiver General by the said Harbor Commissioners out of the tolls, rates and dues aforesaid, on any sums voted by Parliament during the present or the now last session, for the improvement of the St. Lawrence between Montreal and Quebec, and expended for that purpose; and if at any time, such tolls, rates and dues should be insufficient, or should be reported by the said Commissioners as likely to be insufficient, to meet such interest and sinking fund, as well on the sums so voted, as on those raised and expended under the preceding sections, after paying all other charges thereon,—then the Act passed in the now last session of Parliament, chapter forty, “*For imposing tonnage dues and wharfage rates to meet the cost of improving the navigation of the St. Lawrence, between Montreal and Quebec,*” and the powers therein given to the Governor in Council, shall apply, for the purpose of making good such insufficiency, as well to the tariff of rates to be fixed by any Act to be passed during the present session respecting the Harbor of Montreal, and to the said sum of one million five hundred thousand dollars, mentioned in the first section, and to any sum to be voted in the present session for the improvement of the St. Lawrence between Montreal and Quebec, as to the present tariff of rates for the said harbor and the sum appropriated by the supply Act of last Session for the improvement of the said river.

Act 35 V., c.
40, to apply
in certain
cases.

4. The Act passed in the now last session, intituled “*An Act respecting the Public Debt and the raising of loans authorized by Parliament,*” shall apply to any loan to be raised as aforesaid, subject to the special provisions of this Act.

Act 35 V.,
c. 6, to apply.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



36 VIC., CHAP. 61.

An Act respecting the Trinity House and Harbor Commissioners of Montreal.

[Assented to 23rd May, 1873.]

Preamble.

16 V., c. 24.
18 V., c. 143.

WHEREAS by Acts of the Legislature of the late Province of Canada, passed in the sixteenth year of Her Majesty's reign, chapter twenty-four, and in the eighteenth year of Her Majesty's reign, chapter one hundred and forty-three, certain of the powers and authorities of the Trinity House of Montreal were transferred to and vested in the Harbor Commissioners of Montreal;

Recital.

31 V., c. 59.

And whereas, by the Act of the Parliament of Canada, passed in the thirty-first year of Her Majesty's reign, chapter fifty-nine "*Relating to Lighthouses, Buoys and Beacons*," and by an Act to amend the said last mentioned Act, passed by the said Parliament of Canada in the thirty-third year of Her Majesty's reign, chapter eighteen, others of the said powers and authorities have been, and are transferred to and vested in the Minister of Marine and Fisheries;

And whereas it is expedient that the remaining powers and authorities of the said Trinity House of Montreal, together with its property (except as hereinafter provided), should be transferred to and vested in the said Harbor Commissioners of Montreal, and that the said corporation of the Trinity House of Montreal should be dissolved and should cease to exist:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:--

Corporation dissolved, and members and officers discharged on and after 1st July, 1873.

1. Upon, from, and after the first day of July now next, so much of the Act of the Legislature of the late Province of Canada, passed in the twelfth year of Her Majesty's reign, chapter one hundred and seventeen, as provides for the existence and continuance of a body corporate and politic for the purposes of the said Act, by the name of the Trinity House of Montreal, and so much of the said last mentioned Act as makes it lawful for the Governor to appoint a Master, a deputy master and wardens to compose such Corporation, and officers, clerks, and bailiffs of the same, shall be, and the same is hereby repealed; and upon, from, and after the said day, the said Corporation shall be and the same is hereby

dissolved and extinguished, so that the same shall thenceforth wholly and entirely cease to exist, either in name or in deed; and the persons who shall then be respectively the master, the deputy master and wardens of the Trinity House of Montreal, or officers of the said Corporation, shall be and they are hereby thenceforward relieved, exonerated and discharged from their and each of their obligation to execute the powers vested in them and each of them by the said last mentioned Act or any Act amending the same.

2. Upon, from and after the said day all and every the then remaining powers, authority and jurisdiction, rights, duties and liabilities, of the said Trinity House of Montreal, under the said last mentioned Act, and any Act or Acts amending the same, or under any Act or Acts of the Legislature of the said late Province, or of the Parliament of Canada, shall become and be transferred to and vested in and shall be exercised and enjoyed, assumed and discharged by the said Corporation of the Harbor Commissioners of Montreal, created and continued by the said Acts of the sixteenth and eighteenth years of Her Majesty's reign; who shall thenceforth be a body corporate and politic for all and every the purposes of so much of the said Act, twelfth Victoria, chapter one hundred and seventeen, as shall then be and remain unrepealed, as well as for the purposes of the said Act, eighteenth Victoria, chapter one hundred and forty-three, and the Acts amending the same; and may use their own common seal in every case requiring the use of a seal under the provisions of the said Act, twelfth Victoria, chapter one hundred and seventeen, as amended by this Act in the execution of the powers thereby and hereby conferred upon them; and may do in their own name all and whatsoever the said Trinity House of Montreal are by so much of their said Act of incorporation and Acts amending the same as shall then remain unrepealed, authorized and empowered to do in their said corporate name; and all and every the provisions of so much of the said Act of incorporation and Acts amending the same shall apply to the said Harbor Commissioners of Montreal, in lieu and stead of the said Trinity House of Montreal.

Powers, &c.,
transferred to
Harbor Com-
missioners of
Montreal.

3. Upon, from and after the said day, all moneys and securities for money, belonging to or vested in the said Corporation of the Trinity House of Montreal, in trust or otherwise, shall be transferred to and become and be vested in and belong to and be the property of the said Corporation of the Harbor Commissioners of Montreal in trust or otherwise, as the case may be, in the same manner and to the same extent, and under and subject to the same trusts (if any) as the same shall immediately before the said day have been vested in or belonged to or been the property of the said Corporation of the Trinity House of Montreal; and upon

Certain prop-
erty trans-
ferred to the
said Commis-
sioners, and
remainder to
the Crown.

the said day all and every the moneys, bonds, debentures and other vouchers of security for money, of or belonging to the said Corporation of the Trinity House of Montreal, shall be duly delivered into the hands and possession of the proper members and officers of the said Corporation of the Harbor Commissioners of Montreal, by the members and officers of the Trinity House of Montreal, or other persons whomsoever in whose hands, custody or possession the same may then be respectively ; and the seal of the said last mentioned corporation shall be delivered to the chairman of the Corporation of the Harbor Commissioners of Montreal, who is hereby authorized and empowered to break the same ; and all property of the said Trinity House of Montreal, not hereinbefore transferred to the Harbor Commissioners of Montreal, shall be vested in the Crown, under the control and management of the Minister of Marine and Fisheries.

Officers of
Commission-
ers substi-
tuted for those
of Trinity
House.

4. The following members and officers of the said Corporation of the Harbor Commissioners of Montreal are hereby respectively substituted to the corresponding members and officers of the Trinity House of Montreal, in and for the performance and discharge of all and every the duties and functions of their respective positions and offices, that is to say, —the chairman to the master and deputy master, the other commissioners to the wardens, the secretary-treasurer to the registrar and treasurer, and the bailiff to the bailiff.

Port of Mon-
treal to re-
main as at
present; Har-
bor extended
downwards to
Longue
Pointe
Church.

5. For all and every the purposes of the said Act, twelfth Victoria, chapter one hundred and seventeen, as amended by subsequent Acts, and by this Act, and of this Act, the port of Montreal shall continue to be held and deemed to comprehend all that part of the River St. Lawrence which extends from the basin of Portneuf, exclusively, in the County of Portneuf, to the Province line formerly dividing the Provinces of Upper and Lower Canada, and shall include the several rivers falling into the St. Lawrence between the said limits ; and the Harbor of Montreal for the said purposes, shall, from and after the commencement of this Act, be held and deemed to comprise the present limits of the said Harbor, as defined in the existing Acts relating to the Harbor Commissioners of Montreal, as far down the river St. Lawrence as the Ruisseau Migeon, from which point the said harbor is hereby extended downwards, to a point opposite the church of the Parish of Longue Pointe, following the said river along high water mark, and including the said river along high water mark, and including the beach thereof ; and the southern limits of the said harbor shall be the middle of the River St. Lawrence above the Island of St. Helen, thence downwards the northern low water edge of that island to the lower end thereof, and thence towards the south shore of the said river to the ten feet low water line, and thence downwards along the said ten feet low water line to a point opposite the lower northern limits

Southern
limits of
Harbor.

of the said harbor, including Isle Ronde or Mouton: Provided that the said Corporation shall have no right in or jurisdiction over any part of the said Island of St. Helen nor over any part of the said Isle Ronde or Mouton, except only such as may be expressly given them by the Governor in Council.

Proviso as to
Island of St.
Helen, &c.

6. Nothing in this Act shall be construed to affect the validity of any by-law, rule, order or regulation heretofore lawfully made by the Corporation of the Trinity House of Montreal; and all such by-laws, rules, orders and regulations in force at the time of the passing of this Act shall remain and continue to be as good, valid and effectual as if this Act had not been passed, until annulled or altered under the authority of this Act.

By-laws, &c.,
of Trinity
House saved.

7. Nothing in this Act shall affect the continuance of any suit, or action, or other legal proceeding, to which the said Corporation of the Trinity House of Montreal is or shall be a party, or which may be pending before it on the said first day of July now next; but every such suit, action and legal proceeding shall be thenceforth deemed to have been taken up by and in the name of, and may be continued by or against, or may be carried on, continued and prosecuted before the said corporation of the Harbor Commissioners of Montreal, in the room and stead of the Trinity House of Montreal; and all matters and things which might have been done, and all proceedings which might have been taken or prosecuted, by or before the Trinity House of Montreal relating to any offences which shall have been committed, or to any matters which shall have happened, or to any pilotage or other moneys which shall have become due, or to any fines or penalties which shall have been incurred, before the said first day of July, may be done, taken and prosecuted, and the offences may be dealt with and punished, and the pilotage and other moneys may be recovered and dealt with, and the fines and penalties may be enforced and applied, thereafter, by or before the Harbor Commissioners of Montreal.

Suits, &c., to
be continued
by or against
Harbor Com-
missioners.

Past offences
and other
matters how
dealt with.

8. And whereas, by reason of the transfer of the powers of the Trinity House of Montreal, to the Corporation of the Harbor Commissioners of Montreal, it is expedient to alter the constitution of the corporation last mentioned, after the period hereinafter mentioned,—therefore the said corporation shall until the first day of October now next, remain constituted as it now is, but upon, from and after the said first day of October, the said corporation shall be constituted and consist of nine members, four of whom shall be appointed by the Governor, and the remaining five shall be elected in the following manner, that is to say,—two by the Montreal Board of Trade; one by the Montreal Corn

Future con-
stitution of
the Corpora-
tion, after 1st
October, 1873.

Four members
appointed.
Five members
elected, and
by whom.

Exchange Association; one by the Montreal City Council; and one by the owners, consignees or agents of sea-going vessels having entered or departed from the said harbor, or having been at anchor or otherwise moored therein, who shall have paid harbor or wharfage dues, in the manner hereinafter set forth.

Scale of voting for shipping interest.

Proviso.

Interpretation.

Elections by Board of Trade, &c.

Secretary, &c., to give certificate of election.

Elections by shipping interest.

Secretary to give certificate of election.

9. Each and every such owner, consignee or agent shall be entitled to the following proportionate number of votes, that is to say,—if he shall have paid as harbor or wharfage dues, within one year preceeding the day of the election, the sum of one hundred dollars or upwards, he shall be entitled to one vote; if he shall have paid within the same period, the sum of five hundred dollars or upwards, he shall be entitled to two votes, and to an additional vote for every five hundred dollars paid over and above the last mentioned sum: Provided always, that no such owner, consignee or agent shall be entitled to more than ten votes, in any case; and such owners, consignees or agents shall, for the purposes of this Act, be designated and known as the “Shipping Interest:”

The word “owner,” “consignee” or “agent,” in this section shall be held to include any firm, company or association of persons carrying on business in copartnership, and any one of the partners and no more may vote for and in the name of such firm, company or copartnership.

10. The Board of Trade, the Corn Exchange Association, and the City Council shall severally, at a meeting to be held at their respective chambers or usual places of meeting, in the city of Montreal, at noon, on the first Monday of August (or if that day should be a legal holiday, then the next day not being such holiday) in each year, elect,—the Board of Trade two persons, and each of the said other bodies one person to fill the office of Harbor Commissioner; and the person or persons having the majority of votes of those personally present at each of the said several meetings, shall be held to be duly elected, and the secretary or city clerk (as the case may be) shall give him or them a certificate of his or their election, and shall also certify the same to the Minister of Marine and Fisheries.

11. The shipping interest composed as above, shall, at a meeting to be held at the office of the Montreal Harbor Commissioners, in the city of Montreal, at the hour and on the day above mentioned, elect a person to fill the said office of Harbor Commissioner; each and every person presenting himself to vote shall have previously deposited with the secretary of the meeting, the necessary voucher or vouchers showing his qualification to vote, and the number of votes to which he is hereby entitled; the secretary of the said Harbor Commissioners shall be *ex-officio* secretary of the

meeting, and shall keep a record of the minutes and proceedings of the meeting; and shall be the custodian of and shall preserve all vouchers deposited with him; and shall give the person elected a certificate that he has been duly elected, and shall also certify the same to the Minister of Marine and Fisheries.

* * * * *

14. Every vacancy happening from time to time among the members of the said corporation appointed by the Governor, not being members so appointed by reason of the refusal or neglect of the Corporation of the Montreal Board of Trade or the Montreal Corn Exchange Association, the city council or the shipping interest, or of refusal to accept office, shall be filled up by the Governor; and every other vacancy shall be filled by election of a member by the body by whom the member occasioning the vacancy was or might have been elected, such election being made within fourteen days after the occurrence of the vacancy; and as nearly as possible in the manner prescribed for the first election; and the name of the person elected to fill such vacancy shall forthwith after his election be certified to the Minister of Marine and Fisheries, as aforesaid.

Vacancies among members, how to be filled.

Certificate of election.

15. In case the proper body as aforesaid refuses, or, for fourteen days after the occurrence of any such vacancy, neglects to fill up the same and to certify to the said Minister the name of the person elected to fill the same, the Governor may appoint a person to fill such vacancy; and if any person elected at the first or any subsequent election to fill any office refuses to accept the office, the Governor may appoint some other person to fill the same; and the person so appointed shall hold office for the same time as the elective member in whose place he is appointed would have held it, subject to the like provision as to retiring by lot.

Governor to appoint in case of non-election.

Term of office.

16. Every appointment by the Governor under this Act shall be made by an instrument under the Great Seal of Canada, and the person so appointed shall hold office during pleasure; and any such appointment may be made at any time after the passing of this Act, to take effect on and after the first day of October next.

Form and time of appointments by Governor.

17. Any five members of the Corporation of the Harbor Commissioners of Montreal shall be a quorum, and the majority of any quorum may exercise the powers of the corporation; and the existence of a vacancy or vacancies among the members shall not prevent or affect the exercise of the said powers, provided there be a quorum as aforesaid. The members of the corporation may from time to time elect their own president.

Quorum.

President.

Time of entry
into office.

18. The persons appointed or elected under this Act before the said first day of October next, shall enter into office and discharge the duties thereof on and after the said day; those to be thereafter appointed or elected shall enter into office and discharge the duties thereof, from the date of such appointment or election.

Buoys and
beacons.

19. The buoys and beacons within the port of Montreal shall be placed and maintained by the said corporation; and the expenses of so doing shall be paid out of the funds of the corporation.

Corporation
not to be
deemed a new
one.

20. Nothing in this Act shall be construed as making the Harbor Commissioners of Montreal a new corporation, or as requiring that any non-elective member or officer thereof, being such immediately before the said first day of July next, should receive a new appointment; and the members of the said corporation under this Act, whether elected or appointed, and their successors elected or appointed, from time to time, as required by this Act, shall be held to be the successors of the members of the corporation under the Acts constituting or continuing or relating to it.

Inconsistent
provisions of
18 V., c. 143,
and other
Acts re-
pealed.

21. So much of the Act of the Legislature of the late Province of Canada, passed in the eighteenth year of Her Majesty's reign, chapter one hundred and forty-three, and intituled, "*An Act to provide for the management and improvement of the Harbor of Montreal, and the deepening of the Ship Channel between the said Harbor and the Port of Quebec, and to repeal the Act now in force for the said purposes,*"—or of any other Act or law amending the said Act, or relating to the said corporation as may be inconsistent with this Act, is hereby repealed.

Power to bor-
row money for
improving the
harbor.

22. For the purpose of constructing, extending and improving the wharves, structures and other accommodation in the said Harbor, it shall be lawful for the said Corporation to borrow in the Dominion or elsewhere, at par, in such sums and for such number of years, and at such rates of interest, not exceeding eight per cent. per annum, as may be found expedient, and in the manner provided by and subject to the Acts relating to the Harbor Commissioners of Montreal, with respect to moneys thereby authorized to be borrowed by them, any sum or sums of money not exceeding in the whole the sum of two hundred and fifty thousand pounds sterling, and to expend the same in the said harbor for the said purposes, in such manner as may be best calculated to facilitate trade, and increase the convenience and utility of the said harbor.

How such
money shall
be paid.

23. The principal and interest of the sums of money which may be borrowed under the last preceding section,

as well as of all sums already borrowed for the improvement of the said harbor, shall be paid out of the revenue arising from the dues, rates and penalties imposed by or under the Acts mentioned in the preamble of this Act, or any Act amending the same, or under this Act.

2. Whenever the said Harbor Commissioners of Montreal desire to acquire any immovable property for the improvement or extension of the said harbor or the accommodations thereof, they shall cause to be prepared a plan of such immovable property in triplicate, one triplicate whereof shall be deposited in the office of the Clerk of the Peace of the city of Montreal, another triplicate thereof in the office of the Minister of Marine and Fisheries, and the third in the office of the Minister of Public Works:—and such plan shall be submitted to the Governor in Council for approval, and upon being duly approved, if an amicable arrangement with the proprietor of such immovable property is not made, the said Corporation shall have the right to acquire the same without the consent of the proprietor or proprietors thereof, and the third, fourth, fifth, sixth, seventh, eighth, ninth and tenth sub-sections of the ninth section of "The Railway Act, 1868," shall apply to the acquisition of immovable property for the purposes aforesaid, to the same extent and in the same manner as if the said sub-sections had been passed with express reference to the said harbor of Montreal instead of with reference to railways, and the said Harbor Commissioners were therein referred to instead of the railway company:

Provisions for taking real property for improvement of the harbor.

Plans to be approved by Governor in Council.

If, after one month from the deposit of triplicates of such map or plan as hereinbefore provided, and of the approval thereof by the Governor in Council, the said Corporation of the Harbor Commissioners of Montreal shall not have agreed with the owner of such immovable property, then the said corporation shall have the right to acquire such land in manner following, that is to say,—

If no agreement can be effected.

A notice shall be served upon the party in occupation of such land as proprietor, which notice shall contain—

Notice to proprietor.

1st.—A description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, describing them;

2nd.—A declaration of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or for such damages; and

3rd.—The name of a person to be appointed as the arbitrator of the Harbor Commissioners, if their offer be not accepted:

If the proprietor of such land be absent from the Province of Quebec, or be unknown, then upon application to a judge of the Superior Court for Lower Canada, residing in the district of Montreal, accompanied by an affidavit of some officer of the Corporation, that such proprietor is so absent, or that

If proprietor be absent.

after diligent enquiry the party on whom the notice ought to be served cannot be ascertained, the judge shall order such notice to be inserted three times in the course of one month in two newspapers, one in the French and the other in the English language, published in the city of Montreal; and upon such publication being completed, the proprietor of such land shall be conclusively held to have received notice of the intention of the Corporation to acquire the said land according to the provisions hereof:

Certain provisions of
Railway Act,
1868, to apply.

After the service of such notice, or within one month after the publication thereof, the Corporation may acquire such land in manner and form as provided for the acquisition of land by railway companies without the consent of the proprietor, to wit: in the manner and form and by means of the proceedings prescribed by the fifteenth and following sub-sections of the ninth section of "*The Railway Act, 1868*"; in the same manner and with the same effect as if the said sub-sections had been made specially applicable to the said Corporation, and were incorporated in this Act.

Certain property vested
in the Corporation.

25. All property acquired and held by the Harbor Commissioners of Montreal and vested in them for the purposes of the harbor at the date of the creation of the Corporation of "*The Harbor Commissioners of Montreal*," shall be held to have been and is hereby declared to be transferred to and vested in the said Corporation; and all the land lying within the limits of the said Harbor of Montreal as defined by law is also hereby declared to have been vested in and to be the property of the said Corporation in trust for all purposes for which the said Corporation was created, as fully to all intents and purposes as if so vested in them by the original Act of incorporation.

Corporation
may bring
suits, &c.

26. The said Corporation shall have full power and authority to institute and defend all suits, actions and proceedings in any court of justice in respect of the said property and the land comprised within the said harbor, as fully as can be done by proprietors holding lands by valid title, or as might be done by or on behalf of Her Majesty in respect of the bed or beach of the River St. Lawrence.

Former tariff
of tolls re-
pealed.

27. The tariff of tolls, rates, duties and dues authorized to be levied in the harbor of Montreal under and by virtue of the Act of the Legislature of the late Province of Canada, passed in the eighteenth year of Her Majesty's reign, chapter one hundred and forty-three (which tariff is comprised in the several Schedules A, B, C, D, E, F and G, to the said Act appended,) shall be and is hereby repealed upon from and after the first day of July, in the present year one thousand eight hundred and seventy-three.

Provided always, that vehicles of every description, and the horses or other animals harnessed thereto (not being articles of commerce) used in transporting agricultural and other produce to Montreal, and going to or returning from the said city, by any ferry between the said city and Longueuil, or Laprairie, or any intermediate place between them on the south shore of the St. Lawrence, shall be exempt from the duties imposed by schedule B to this Act.

Proviso: as to vehicles bringing produce to market.

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36 VIC., CHAP. 62.

An Act further to amend the Acts to provide for the management and improvement of the Harbor of Quebec.

[Assented to 23rd May, 1873.]

Preamble.

WHEREAS it is expedient to make further and better provision for the management and improvement of the harbor of Quebec, and to alter the constitution of the Corporation of the Commissioners of the said harbor: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Constitution of Corporation altered on 1st October, 1873.

Members, how appointed.

1. The Corporation of the Quebec Harbor Commissioners shall, until the first day of October, which will be in the present year of our Lord one thousand eight hundred and seventy-three, remain constituted as it now is; but upon, from and after the said day the said corporation shall be constituted and consist of nine members,—three of whom shall be appointed by the Governor, two by the Council of the Quebec Board of Trade, one by the Council of the Lévis Board of Trade, and three by the owners, consignees and agents who shall have paid harbor dues on vessels, goods, wares and merchandize, or otherwise, to the amount herein-after set forth.

Members of shipping interest and their votes.

Proviso.

Definition.

2. Each and every such owner, consignee or agent as aforesaid, shall be entitled to the following proportionate number of votes, that is to say, if he shall have paid for such harbor dues as aforesaid, within one year preceding the day of the election, the sum of one hundred dollars or upwards, he shall be entitled to one vote; if he shall have paid within the same period the sum of five hundred dollars or upwards, he shall be entitled to two votes, and to an additional vote for every five hundred dollars paid over and above the last mentioned sum: Provided always, that no such owner, consignee or agent shall be entitled to more than ten votes in any case; and such owners, consignees or agents shall, for the purposes of this Act, be designated and known as the “shipping interest”:

The word “owner,” “consignee” or “agent,” in this section, shall be held to include any firm, company, or association of persons carrying on business in copartnership;

and any one of the partners, and no more, may vote for and in the name of such firm, company or copartnership.

3. The Council of the Quebec Board of Trade, and the Council of the Lévis Board of Trade, shall severally, at meetings to be held at their chambers or usual places of meeting, at noon on the first Monday in August in the present year (or if that day should be a legal holiday, then on the next following day not being such holiday), elect—the said Council of the Quebec Board of Trade two persons, and the said Lévis Board of Trade one person, to fill the office of Harbor Commissioners; and the person or person having the majority of the votes of the members of the Council personally present at the said meetings respectively shall be held to be duly elected, and the secretary of the Board shall give him or them a certificate of his or their election, and shall also certify the same to the Minister of Marine and Fisheries.

Election by
Boards of
Trade of
Quebec and
Lévis.

Certificate of
election.

4. The shipping interest composed as above, shall, at a meeting to be held at the office of the Quebec Harbor Commissioners, in the city of Quebec, at noon on the first Wednesday in August in the present year (or if that day should be a legal holiday, then on the next following day not being such holiday) elect three persons to fill the said office of Harbor Commissioners; each and every person presenting himself to vote shall have previously deposited with the secretary of the meeting the necessary voucher or vouchers showing his qualification to vote, and the number of votes to which he is hereby entitled. The secretary of the said Harbor Commissioners shall be *ex officio* secretary of the meeting, and shall keep a record of the minutes and proceedings of the meeting, and shall be the custodian of and shall preserve all vouchers deposited with him, and shall give the persons elected certificates that they have been duly elected, and shall also certify the same to the Minister of Marine and Fisheries.

Election by
shipping
interest.

Certificate of
election.

* * * * *

7. Every vacancy happening, from time to time, among the members of the said corporation appointed by the Governor, not being members so appointed by reason of the refusal or neglect of the Council of the Quebec Board of Trade, or of the Council of the Lévis Board of Trade, or of the shipping interest, or of refusal, when elected, to accept office, shall be filled up by the Governor; and every other vacancy may be filled by election of a member by the body by whom the member occasioning the vacancy was or might have been elected,—such election being made within fourteen days after the occurrence of the vacancy, and as nearly as possible in the manner prescribed for the first election; and the name of the person elected

Vacancies,
how filled by
Governor.

And by
election.

Certificate of
election.

to fill such vacancy shall, forthwith after his election, be certified to the Minister of Marine and Fisheries, as aforesaid.

Or by the Governor in default of election.

8. In case the proper body as aforesaid refuses, or for fourteen days after the occurrence of any such vacancy neglects to fill up the same, and to certify to the said Minister the name of the person elected to fill the same, the Governor may appoint a person to fill such vacancy; and if any person elected at the first or any subsequent election to fill any office refuses to accept the office, the Governor may appoint some other person to fill the same; and every person so appointed shall hold office for the same time as the elective member in whose place he is appointed would have held it, subject to the like provision as to retiring by lot.

Term of office.

Appointment by Governor, how made.

9. Every appointment by the Governor under this Act shall be made by an instrument under the Great Seal of Canada; and the person so appointed shall hold office during pleasure; and any such appointment may be made at any time after the passing of this Act, to take effect on and after the first day of October next.

Quorum.

10. Any five members of the corporation of the Harbor Commissioners of Quebec shall be a quorum, and the majority of any quorum may exercise the powers of the corporation; and the existence of a vacancy or vacancies among the members shall not prevent or affect the exercise of the said powers, provided there be a quorum as aforesaid. The members of the corporation may, from time to time, elect their own president.

President.

Time of entry into office.

11. The persons appointed or elected under this Act before the said first day of October next, shall enter into office and discharge the duties thereof on and after the same day; those to be thereafter appointed or elected shall enter into office and discharge the duties thereof from the date of such appointment or election.

Corporation continued under new members.

12. Nothing in this Act shall be construed as making the Quebec Harbor Commissioners a new corporation, or as requiring that any officer thereof, being such immediately before the said first day of October next, should receive a new appointment; but the members of the corporation elected before the said day shall go out of office on the said day; and the members of the said corporation under this Act, whether elected or appointed, and their successors elected or appointed, from time to time, as required by this Act, shall be held to be the successors of the members of the corporation under the Acts constituting or continuing or relating to it.

13. So much of the Act of the Legislature of the late Province of Canada, passed in the twenty-second year of Her Majesty's reign, and intituled, "*An Act to provide for the improvement and management of the harbor of Quebec.*" or any other Act or law amending the said Act, or relating to the said corporation of the Quebec Harbor Commissioners, as may be inconsistent with this Act, is hereby repealed.

Inconsistent enactments repealed: 22 V, c. 32.

14. Whenever the Quebec Harbor Commissioners desire to acquire any immovable property for the improvement or extension of the said harbor or the accommodations thereof, they shall cause to be prepared a plan of such immovable property in triplicate; one triplicate whereof shall be deposited in the office of the Clerk of the Peace of the City of Quebec, another thereof in the office of the Minister of Marine and Fisheries, and the third in the office of the Minister of Public Works; and such plan shall be submitted to the Governor in Council for approval, and, upon being duly approved, if an amicable arrangement with the proprietor of such immovable property is not made, the said corporation shall have the right to acquire the same without the consent of the proprietor or proprietors thereof; and the third, fourth, fifth, sixth, seventh, eighth, ninth and tenth sub-sections of the ninth section of "*The Railway Act, 1868,*" shall apply to the acquisition of immovable property for the purposes aforesaid, to the same extent and in the same manner as if the said sub-sections had been passed with express reference to the said harbor of Quebec instead of with reference to railways, and the said Quebec Harbor Commissioners were therein referred to instead of the railway company:—

Corporation may acquire property for the improvement of the harbor by expropriation and on what conditions. Plans to be filed after approval by Governor in Council.

Certain provisions of Railway Act, 1868, to apply.

If, after one month from the deposit of triplicates of such map or plan as herein provided and of the approval thereof by the Governor in Council, the said corporation of the Quebec Harbor Commissioners shall not have agreed with the owner of such immovable property, then the said corporation shall have the right to acquire such land in manner following, that is to say:—

Proceedings for expropriation.

A notice shall be served upon the party in occupation of such land as proprietor, which notice shall contain,—

1st.—A description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, describing them;

2nd.—A declaration of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or for such damages; and

3rd.—The name of a person to be appointed as the arbitrator of the Quebec Harbor Commissioners, if their offer be not accepted:

If the proprietor of such land be absent from the Province of Quebec, or be unknown, then, upon application to a judge of the Superior Court for Lower Canada, residing in

If the proprietor be absent.

the district of Quebec, accompanied by an affidavit of some officer of the corporation that such proprietor is so absent, or that, after diligent enquiry, the party on whom the notice ought to be served cannot be ascertained, the judge shall order such notice to be inserted three times in the course of one month in two newspapers, one in the French and the other in the English language, published in the city of Quebec; and upon such publication being completed, the proprietor of such land shall be conclusively held to have received notice of the intention of the corporation to acquire the land according to the provisions hereof:

Proceedings
under Rail-
way Act,
1868.

After the service of such notice or within one month after the publication thereof, the corporation may acquire such land in manner and form as provided for the acquisition of land by railway companies without the consent of the proprietor, to wit:—in the manner and form and by means of the proceedings prescribed by the fifteenth and following sub-sections of the ninth section of "*The Railway Act, 1868*," in the same manner and with the same effect as if the said sub-sections had been made specially applicable to the said corporation, and were incorporated in this Act.

Property
vested in
corporation
in trust.

15. All property acquired and held by the Quebec Harbor Commissioners under this Act shall be held to have been and is hereby declared to be transferred to and vested in and to be the property of the said corporation, in trust, for all purposes for which the said corporation was created, as fully to all intents and purposes, as if so vested in them by their original Act of incorporation.

Power to
bring or
defend suits.

16. The said corporation shall have full power and authority to institute and defend all suits, actions and proceedings in any court of justice in respect of the said property and the land comprised within the said harbor of Quebec, as fully as can be done by proprietors holding lands by valid title, or as might be done by or on behalf of Her Majesty in respect of the bed or beach of the River St. Lawrence.

Recital.

17. And whereas the means at the disposal of the said corporation are altogether insufficient to enable them to meet their engagements, and at the same time to make such improvements in the said harbor as the trade of Quebec and of the Dominion imperatively require, therefore,—

Loan of
\$1,200,000
authorized.

For the relief of the said corporation of the Quebec Harbor Commissioners, and for the improvement of the said harbor, it shall be lawful for the Governor in Council to raise, by the issue of debentures bearing interest, payable half-yearly, at the rate of five per cent. per annum. and redeemable in forty years, the sum of one million two hundred thousand dollars:

Out of the sum so raised the Governor in Council may authorize the application of such sums as may be necessary for the purpose, to the redemption, at a rate not exceeding par, of such of the outstanding debentures of the corporation as shall be presented for that purpose to such officer or person and in such manner as the Governor in Council may appoint: Provided always, that interest on all such debentures which shall not be so presented for redemption before the first day of October in the present year, one thousand eight hundred and seventy-three, shall cease to accrue on after the said day:

Appropriation for purchase of debentures of the corporation.

Proviso.

The remainder of the sum so raised shall be advanced from time to time to the said corporation to meet payments to be made on account of improvements in the said harbor, and which they are hereby authorized to make,—such improvements having been previously sanctioned by the Governor in Council, on the joint report of the Minister of Marine and Fisheries and the Minister of Public Works; and shall be applied to no other purpose whatever:

Remainder for improvement of the Harbor.

Upon the payment or advance of any sum, by the Government, under the foregoing provisions, the said corporation shall deposit with the Receiver General their own bonds for the same amount, in such form as he may approve, bearing interest at the rate of five per cent. per annum, and one per cent. per annum for a sinking fund; and the sinking fund so created shall be kept by the Receiver General as a special account, and interest, at the rate of five per cent. per annum, shall be allowed by him on all amounts received from it, or investments of such amounts may be made by him from time to time in securities approved by the Minister of Finance, and the interest thereon credited to the corporation in the said account:

Provision for repayment by the corporation.

The interest and the contributions to the sinking fund on the bonds given by the said corporation for sums paid or advanced for the purposes aforesaid shall be payable by the said corporation from the time of such payment or advance:

Interest and Sinking Fund when payable.

The said interest and sinking fund shall be payable by the said corporation out of the income of the said corporation from the tolls, rates, dues, penalties and other sources of income, under the Act first hereinbefore cited, or any Act amending it, or this Act; and shall be the first charge thereon, and paid out of the same in preference to all other charges whatsoever, after defraying the expenses of collecting the same, and of keeping the wharves and other works and property of the corporation in a thorough state of repair, and the indispensable expenses of management; and if, at any time, such income should be insufficient, or should be reported by the corporation as likely to be insufficient to meet such interest and sinking fund, then it shall be lawful for the Governor in Council from time to time to increase the said tolls, rates and dues so as to enable the said cor-

Out of what funds.

If such funds are found insufficient.

poration to pay such interest and sinking fund, and the arrears thereof, if any.

Corporation
may levy ad-
ditional rates.

25 V., c. 46.

Maximum
rates
on vessels.

18. It shall be lawful for the said corporation, in addition to the tolls, rates, duties and dues, which they are empowered to impose and levy by the Act herein first above cited and by the Act of the Legislature of the late Province of Canada, passed in the twenty-fifth year of Her Majesty's reign, and intituled "*An Act to amend an Act to provide for the improvement and management of the harbor of Quebec*," to impose, fix and establish from time to time and to levy tolls, rates, duties and dues, upon the vessels and articles herein-after mentioned, not exceeding the following, that is to say :—

On steamers plying between Quebec, or any place on the River St. Lawrence above Quebec, and any port or ports in the Gulf of St. Lawrence, or in Gaspé, the Bay of Chaleurs, New Brunswick, or Nova Scotia, Prince Edward Island or Newfoundland, each one cent per ton, per trip,—but such steamers shall not be liable to the tonnage duty under the Act last cited ;

* * * * *

On ferry steamers and small market steamers, plying in or to the harbor of Quebec, for the season, ten dollars each ;

On steamers of the Richelieu Company and all steamers plying between Quebec and Montreal, for the season, each, one hundred and fifty dollars ; and on all other steamers trading to other places west of Montreal, and not being daily boats, three dollars per trip ;

On other steamers plying between Quebec and places on the River St. Lawrence, below the Harbor of Quebec, or above the same but below Montreal, or places on the River Richelieu, or the River Saguenay, for the season, fifty dollars each ;

On schooners and barges, of from twenty-five to one hundred tons, for each time the vessel uses the Harbor of Quebec, one dollar, or on each vessel for the season, five dollars ; on schooners and barges from one hundred to two hundred and fifty tons, two dollars per trip, or ten dollars per annum ;

On all steamers and sailing vessels entering and using the said harbor, not included in the foregoing provisions, and which do not pay tonnage, dues to the corporation under the Acts hereinbefore cited,—for every day of twenty-four hours, if of or under one thousand tons, one-half cent, and if over one thousand tons, one-quarter of a cent, per ton per day ; with power to the Commissioners to commute this for an annual tax ;

(The tonnage in the case of registered vessels to be their tonnage per register.)

* * * * *

Provided always, that vessels coming from or going to Montreal and merely passing through the Harbor of Quebec, and not landing any cargo or taking any on board, shall not be liable to any tonnage dues under this section : and in cases where a portion of the cargo is landed or transhipped, only such portion as is landed or transhipped shall be liable to dues ; and in the case of any vessel taking part of her cargo on board at Quebec, only such portion as is taken on board shall be liable to dues.

Proviso: as to vessels passing to and from Montreal.

* * * * *

20. The said corporation shall have power to make a by-law to prescribe where all vessels entering and loading in the Harbor of Quebec shall discharge their cargo or ballast, and to prevent any such vessels from discharging ballast in the said harbor.

By laws as to ballast.

21. The said corporation shall have the same power and authority with respect to the south side of the River St. Lawrence in the Harbor of Quebec, as that conferred upon the said corporation of Quebec Harbor Commissioners by the first above cited Act, and by any Act or Acts amending the same with regard to the north side of the said river.

Powers of corporation on south side of the river.

22. The tolls, rates, duties and dues to be imposed under this Act shall be collected, recovered and payment thereof enforced in like manner with those imposed by or under the Acts hereinbefore cited and under the like penalties in case of default; and the provisions of the said Acts shall apply to them, and to things to be done under this Act, which shall be interpreted as forming one Act with them and the other Acts amending the Act first above cited; and all words and expressions in this Act, shall be construed as having the same meaning as in the said Acts ; Provided always, that the valuation of goods on which *ad valorem* rates or dues are imposed by or under the said Acts or any of them, or this Act, shall be made under the Customs laws now in force or which may be in force when such valuation is made ; and such Customs Acts shall be understood as referred to in the twenty-fifth section of the Act first above cited, instead of the Customs laws therein mentioned.

Collection of tolls, &c.

Proviso. as to valuation of goods for wharfrage dues, &c.

* * * * *



36 VIC., CHAP. 63.

An Act respecting the Harbor of Pictou, in Nova Scotia.

[Assented to 23rd May, 1873.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Definitions.

1. In the construction and for the purposes of this Act (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings hereinafter assigned to them, that is to say :

“Ship” shall include every description of vessel used in navigation, not propelled by oars :

“Master” shall include every person (except a pilot) having command or charge of a ship.

Commissioners to be appointed.

2. The Governor may from time to time appoint three Commissioners under this Act to have the superintendence of the harbor and harbor master of the Port of Pictou, in the Province of Nova Scotia, and to be in the place and stead of the Commissioners under section thirty-seven of chapter seventy-nine of the Revised Statutes of Nova Scotia, third series, part one, intituled, “*Of Pilotage, Harbors and Harbor Masters.*”

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Under Minister of Marine and Fisheries.

4. The Commissioners and harbor master appointed under this Act shall be under the control of the Minister of Marine and Fisheries, to whom they shall respectively furnish a report in writing and on oath, on or as soon as possible after the thirty-first day of December in each year, of their doings in office, and of the moneys received and expended by them.

Powers and duties of Harbor Master to be defined by regulations of Commissioners.

5. The said Commissioners shall have power, from time to time, with the consent of the Governor in Council to make, repeal or amend rules and regulations defining the rights, powers and duties of the harbor master of the said port, and the use, management and government of the said harbor and of the public wharf thereat, constructed under the thirty-seventh section of the said chapter seventy-nine

of the Revised Statutes of Nova Scotia, and the rates of wharfage to be paid for the use of the said wharf; and by such rules and regulations to impose reasonable penalties, not in any case exceeding one hundred dollars, for any breach of such rules and regulations, with, in the case of continuing breach thereof, a further penalty not exceeding ten dollars, for every twelve hours during which such breach continues, but so that no such rule or regulation shall impose a minimum penalty; and every breach of any such rule or regulation shall be deemed an offence against this Act, and every such penalty shall be held to be a penalty imposed by this Act.

Regulations
may impose
penalties.

6. The said Commissioners shall place and maintain the necessary buoys and beacons in and for the said harbor.

Buoys, &c.

7. The salary of the harbor master shall be at the rate of not exceeding four hundred dollars per annum, with an allowance at the rate of not exceeding two hundred dollars per annum, for the expenses of a boat and boat's crew, to be paid out of the harbor dues hereinafter mentioned.

Salary of
Harbor
Master.

8. The said harbor master shall furnish copies of the rules and regulations made under this Act, and in force, from time to time, to every licensed pilot of the Port of Pictou, who shall give one of such copies to the master of every ship which he shall take in charge.

Copies of
regulations to
pilots.

9. It shall be the duty of the said harbor master to prosecute every person violating any rule or regulation made under this Act; and it shall be the duty of the said Commissioners to see that such prosecutions are brought and effectively conducted.

Prosecuting
offenders.

10. A rate or duty of one cent and a half cent per ton on the registered tonnage of each ship exceeding forty tons register, shall be levied and collected as harbor dues on all ships over forty tons register entering the said harbor.

Harbor dues.

11. The said harbor dues shall be collected by the Collector of Customs at the said port, who shall not grant entry inwards to any ship until the harbor dues on her are paid; and who shall pay, out of the sums so by him collected, the salary of the harbor master, and his allowance for the expenses of a boat and boat's crew; and shall pay over any balance thereof to the said Commissioners, for the maintenance and improvement of the said harbor and wharf, and the buoys, beacons and the other appurtenances thereof.

Collection
and applica-
tion thereof.

12. The said Commissioners shall expend so much of the balance so paid over to them, as may remain after the payment of the necessary expenses of the maintenance and

Expenditure
of balance in
improve-
ments.

repairs of the said harbor, wharf, buoys, beacons and other appurtenances, in improving the said harbor and wharf and their appurtenances, in such manner and according to such plan as may be suggested by them, and approved by the Minister of Marine and Fisheries.

Extent of
Harbor.

13. The said harbor shall include and consist of all the water space and beach, up to high water mark, within a line drawn from Logan Point to Roaring Bull Point, as far up as the tide ebbs and flows.

Repealing
clause.

14. So much of the said chapter seventy-nine of the Revised Statutes of Nova Scotia as may be inconsistent with this Act, or as makes any provisions for any matter provided for in this Act, is hereby repealed.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



36 VIC., CHAP. 64.

An Act to amend the Act respecting Joint Stock Companies to construct works to facilitate the transmission of Timber down Rivers and Streams.

[Assented to 23rd May, 1873.]

WHEREAS it is expedient to amend the sixty-eighth chapter of the Consolidated Statutes of Canada, intituled, *“An Act respecting Joint Stock Companies to construct works to facilitate the transmission of Timber down Rivers and Streams:”* Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Preamble.
Con. Stat.
Can. c. 68.

1. Every company heretofore formed, or which may be hereafter formed, under the above recited Act or any Act or Acts amending the same, who shall neglect or omit to comply with the provisions of the twenty-seventh, the twenty-eighth and the sixtieth sections of the said above recited Act, shall incur a penalty of not less than fifty dollars and not more than two hundred dollars, current money of Canada : and such penalty shall be recoverable with costs, in a summary manner, before any justice of the peace, upon the oath of one credible witness ; and such justice of the peace shall levy such penalty and costs, if not forthwith paid, by warrant of distress and sale of the goods and chattels of such company ; and such penalty shall belong to Her Majesty for the public uses of the Dominion.

Penalty on company not complying with ss. 27, 28 and 60.

How recovered and appropriated.

2. This Act shall be construed as forming part of the above recited Act.

Construing this Act.

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37 VIC., CHAP. 14.

An Act to provide for the construction of the Canadian Pacific Railway.

[Assented to 26th May, 1874.]

Preamble.

Recital of part
of order of H.
M. in Council
admitting
British Col-
umbia into
the Dominion.

WHEREAS by the terms and conditions of the admission of British Columbia into union with the Dominion of Canada, set forth and embodied in an address to Her Majesty adopted by the Legislative Council of that colony in January, one thousand eight hundred and seventy-one, under the provisions of the one hundred and forty-sixth section of "*The British North America Act, 1867*," and laid before both the Houses of the Parliament of Canada during the session of one thousand eight hundred and seventy-one, and concurred in by the Senate and House of Commons of Canada, and embodied in addresses of the said Houses to Her Majesty under the said section of "*The British North America Act, 1867*," and approved by Her Majesty and embodied in the Order of Her Majesty in Council of the sixteenth day of May, one thousand eight hundred and seventy-one, admitting British Columbia into the Union under the said Act as part of the Dominion of Canada, from the twentieth day of July, one thousand eight hundred and seventy-one, it is among other things provided :

Agreement.

That the Government of the Dominion shall construct a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected for the purpose east of the Rocky Mountains towards the Pacific to connect the seaboard of British Columbia with the railway system of Canada ; and further that the Government of the Dominion shall secure the commencement of such railway within two years and its completion within ten years from the date of the Union ;—the Government of British Columbia agreeing to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway, throughout its entire length in British Columbia (not to exceed, however, twenty miles on each side of the said line) as may be appropriated for the same purpose by the Dominion Government from the public lands in the North-West Territories and the Province of Manitoba, subject to certain conditions for making good to

the Dominion Government from contiguous lands the quantity of land which may be held under pre-emption right or by Crown grant within the said limits, and for restraining the sale or alienation by the Government of British Columbia during the said two years of lands within the said limits ;

And whereas the House of Commons of Canada resolved in the session of the year one thousand eight hundred and seventy-one, that the said railway should be constructed and worked by private enterprise and not by the Dominion Government, and that the public aid to be given to secure its accomplishment should consist of such liberal grants of land and such subsidy in money or other aid, not increasing the then existing rate of taxation, as the Parliament of Canada should thereafter determine ; and whereas the statute thirty-fifth Victoria, chapter seventy-one, was enacted in order to carry out the said agreement and resolution, but the enactments therein contained have not been effectual for that purpose ;

Resolutions of
House of
Commons and
Act 35 V., c.
71.

And whereas, by the legislation of this present session, in order to provide means for meeting the obligations of the Dominion, the rate of taxation has been raised much beyond that existing at the date of the said resolution ; and whereas it is proper to make provision for the construction of the said work as rapidly as the same can be accomplished without further raising the rate of taxation : Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Tariff Act of
present ses-
sion, c. 6.

1. A railway to be called the “ Canadian Pacific Railway ” shall be made from some point near to and south of Lake Nipissing to some point in British Columbia on the Pacific Ocean, both the said points to be determined and the course and line of the said railway to be approved of by the Governor in Council.

Railway to be
made from
near L. Nipis-
sing to the
Pacific.

2. The whole line of the said railway, for the purpose of its construction, shall be divided into four sections ;—the first section to begin at a point near to and south of Lake Nipissing, and to extend towards the upper or western end of Lake Superior, to a point where it shall intersect the second section hereinafter mentioned ; the second section to begin at some point on Lake Superior, to be determined by the Governor in Council, and connecting with the first section, and to extend to Red River, in the Province of Manitoba ; the third section to extend from Red River, in the Province of Manitoba, to some point between Fort Edmonton and the foot of the Rocky Mountains, to be determined by the Governor in Council ; the fourth section to extend from the western terminus of the third section to some point in British Columbia on the Pacific Ocean.

Division into
four sections.
First section.

Second sec-
tion.

Third section.

Fourth sec-
tion.

Branches.

3. Branches of the said railway shall also be constructed as follows, that is to say :—

From eastern terminus to Georgian Bay.

First.—A branch from the point indicated as the proposed eastern terminus of the said railway to some point on the Georgian Bay, both the said points to be determined by the Governor in Council.

From Fort Garry to Pembina.

Secondly.—A branch from the main line near Fort Garry, in the Province of Manitoba, to some point near Pembina, on the southern boundary thereof.

How this Act shall apply to branches.

4. The branch railways above mentioned shall, for all intents and purposes, be considered as forming part of the Canadian Pacific Railway, and as so many distinct sections of the said railway, and shall be subject to all the provisions hereinafter made with respect to the said Canadian Pacific Railway, except in so far as it may be otherwise provided for by this Act.

Lines of telegraph.

5. A line of electric telegraph shall be constructed in advance of the said railway and branches, along their whole extent respectively, as soon as practicable after the location of the line shall have been determined upon.

Gauge, materials and mode of construction—

6. The gauge of the said railway shall be four feet eight inches and a half, and the grades thereof, and the materials and manner of and in which the several works forming part thereof shall be constructed, and the mode of working the railway, including the description and the capacity of the locomotive engines and other rolling stock, shall be such as may be determined by the Governor in Council.

To be under superintendence of Department of Public Works.

7. The said Canadian Pacific Railway and the branches or sections hereinbefore mentioned, and the stations, bridges and other works connected therewith, and all engines, freight and passenger cars and rolling stock shall be constructed under the general superintendence of the Department of Public Works.

Sub-sections may be made and given out by contract.

8. The Governor in Council may divide the several sections of the said railway into sub-sections, and may contract with any person, co-partnership or company incorporated, or to be hereafter incorporated (hereinafter referred to as the "contractors," which expression shall be understood to include a single "contractor" for any such work) for the construction of any section or sub-section of the said railway, including all works connected therewith, and all rolling stock required to work the same, and for the working of the same, as hereinafter provided, on such terms and conditions as by the Governor in Council may be deemed just and reasonable, subject to the following provisions :—

What the contracts shall include.

Conditions to be observed.

Tenders.

1. That the works on any section or sub-section of the said railway shall not be given out to any contractor or con-

tractors except after tenders shall have been obtained for the same ;

2. That the contract for any portion of the said works shall not be given to any contractors unless such contractors give satisfactory evidence that they possess a capital of at least four thousand dollars per mile of their contract, and of which twenty-five per cent. in money, Government or other sufficient securities, approved by the Governor in Council, shall have been deposited to the credit of the Receiver General, in one or more of the chartered banks of the Dominion, to be designated for that purpose by the Governor in Council, as security for the completion of the contract ; and the Governor in Council may make such further conditions as he may deem expedient for securing the performance of the contract, as well with respect to the construction as to the working of the railway after completion, and any such condition shall be valid and may be enforced as provided by the contract ;

Contractors must have capital and give security on it.

Further security may be required.

3. That the total sum to be paid to the contractors shall be stipulated in the contract, and shall be ten thousand dollars for each mile of the section or sub-section contracted for, and that such sum shall be paid to the contractors as the work progresses, by monthly payments in proportion to the value of the work then actually performed (according to the estimates of the engineers designated for the purpose by the Minister of Public Works), as compared with the value of the whole work contracted for, including rolling stock and all things to be done or furnished by the contractors ; and except money arising from the sale of lands, as herein-after provided, no further sum of money shall be payable to the contractors as principal, but interest at the rate of four per cent. per annum for twenty-five years from the completion of the work, on a sum (to be stated in the contract) for each mile of the section or sub-section contracted for, shall be payable to the contractors, and guarantees for the payment thereof shall be given from time to time to the contractors in like manner and proportion, and on like conditions, as payments are to be made on the principal sum above mentioned ; and the tenders for the work shall be required to state the lowest sum per mile on which such interest and guarantees will be required ;

Total sum per mile, payable in money limited, and how to be paid.

Guarantee may be given for interest only, on a further sum for 25 years : and on what conditions.

Tenders to state lowest sum for guarantee.

Subsidy in land :

4. That a quantity of land not exceeding twenty thousand acres for each mile of the section or sub-section contracted for, shall be appropriated in alternate sections of twenty square miles each along the line of the said railway or at a convenient distance therefrom, each section having a frontage of not less than three miles nor more than six miles on the line of the said railway, and that two-thirds of the quantity of land so appropriated shall be sold by the Government at such prices as may be from time to time agreed upon between the Governor in Council and the contractors, and the proceeds thereof accounted for and paid half-yearly

Location of land, and conditions of subsidy : sales of land, &c., by Government.

Quality of
lands.

Proviso, as to
location.

When to be
appropriated.

Proviso: as to
conditions of
land subsidy.

Right of way
through pub-
lic lands.

Cost of sur-
veys.

Railway, &c.,
to be property
of contractors
and worked
by them.
Conditions.

Railway Act,
1868, to
apply.

How inter-
preted for that
purpose.

to the contractors free from any charge of administration or management,—the remaining third to be conveyed to the contractors, the said lands to be of fair average quality, and not to include any land already granted or occupied under any patent, license of occupation or pre-emption right; and when a sufficient quantity cannot be found in the immediate vicinity of the railway, then the same quantity, or as much as may be required to complete such quantity, shall be appropriated at such other places as may be determined by the Governor in Council;

5. That the said blocks of land to be appropriated as afore-said, shall be designated by the Governor in Council as soon as the line of railway, or of any section or sub-section thereof, is finally located: Provided, that all such payments of the proceeds of lands sold, and conveyances of lands to be granted shall be so made and granted from time to time as the work of construction is proceeded with, in like manner and proportion and on like conditions as the money and guarantees above mentioned, and subject to any conditions of the contract as respects the construction or the working of the railway after completion;

6. That the Governor in Council may further grant to the contractors the right of way through Government lands, as also any such lands required for stations or work-shops and generally all such lands as may be necessarily required for the purpose of constructing or working the said railway;

7. That the cost of surveys and of locating the line of the several sections and sub-sections of the said railway shall be part of the subsidy or consideration allowed to the contractors or not, as may be determined by the Governor in Council and agreed upon in the contract entered into with the contractors;

8. Each section or sub-section of the said railway, as it is in whole or in part completed, shall be the property of the contractors for the same, and shall be worked by and for the advantage and benefit of such contractors under such regulations as may, from time to time, be made by the Governor in Council, as regards the rates chargeable for passengers and freight, the number and description of trains to be run, and the accommodation to be afforded for freight and passengers;

9. All and every the provisions of "*The Railway Act, 1868*," in so far as the provisions therein contained are applicable to the said Canadian Pacific Railway, or any section or sub-section thereof, and are not inconsistent with or repugnant to the provisions of this Act, shall be considered as forming part of this Act, and are hereby incorporated therewith;

10. In applying the said Railway Act to the Canadian Pacific Railway or any portion thereof, the expression "the railway" shall be construed as meaning any section or sub-

section of the said railway, the construction of which has been undertaken by any contractors,—and the expression “the Company” shall mean the contractors for the same; and such contractors shall have all the rights and powers vested in companies by the said Act.

11. As respects the said railway, the eighth section of *The Railway Act, 1868*, relating to “Plans and Surveys,” shall be subject to the following provisions:—

It shall be sufficient that the map or plan and book of reference for any portion of the line of the railway, not being within any district or county for which there is a clerk of the peace, be deposited in the office of the Minister of Public Works of Canada, and any omission, mis-statement or erroneous description of any lands therein may be corrected by the contractor with the consent of the Minister, and certified by him; and the railway may then be made in accordance with such certified correction;

The eleventh sub-section of the said eighth section of the *Railway Act* shall not apply to any portion of the railway passing over ungranted lands of the Crown, or lands not within any surveyed township in any Province; and in such places, deviations not exceeding five miles from the line shown on the map or plan, approved by the Minister of Public Works, shall be allowed, on the approval of the engineer employed by the said Minister, without any formal correction or certificate, and any further deviation that may be authorized by the Governor in Council, and the railway made in accordance with such authorized deviation;

The map or plan and book of reference made and deposited in accordance with this section, after approval by the Government, shall avail as if made and deposited as required by the said *“The Railway Act, 1868,”* for all the purposes of the said Act, and of this Act; and any copy of the same or extract therefrom, certified by the said Minister or his deputy, shall be received as evidence in any court of law in Canada;

It shall be sufficient that a map or profile of any part of the completed railway, which shall not lie within any county or district having a registry office, be filed in the office of the Minister of Public Works;

12. The provision made in sub-sections thirty, thirty-one and thirty-two of section nine of *“The Railway Act, 1868,”* as to incumbrances on lands acquired for the said railway shall apply to lands so acquired in the Provinces of Manitoba, and British Columbia, and in the North-West Territories; and as respects lands in the North-West Territories, the Court of Queen’s Bench for the Province of Manitoba shall be held to be the court intended by the said sub-sections;

13. In the Provinces of British Columbia and Manitoba, any judge of a superior or county court shall have all the powers given by the said Act to a county judge, and in the North-West Territories such power shall be exercised

Section 8 modified as to “plans and surveys.”

Deposit of map or plan, &c.

Deviations

Proof of map or plan, &c.

When there is no registry office.

Sections respecting incumbrances, how to apply.

Exercise of certain judicial powers in British Columbia, Manitoba and

N. W. Territories.

by a judge of the Court of Queen's Bench of the Province of Manitoba;

Power to take materials.

14. It shall be lawful for the contractors to take from any public lands adjacent to or near the line of the said railway all stone, timber, gravel and other materials which may be necessary or useful for the construction of the railway; and also to lay out and appropriate to the use of the contractor a greater extent of lands, whether public or private, for stations, depots, workshops, buildings, side-tracks, wharves, harbors and roadway, and for establishing screens against snow, than the breadth and quantity mentioned in "*The Railway Act, 1868*," such greater extent taken, in any case, being allowed by the Government, and shown on the maps or plans deposited with the Minister of Public Works;

Notices in Gazette.

15. As respects places not within any Province, any notice required by "*The Railway Act, 1868*," to be given in the "Official Gazette" of a Province, may be given in the *Canada Gazette*.

Form of conveyances to contractors.

16. Deeds and conveyances of lands to the contractors (not being letters patent from the Crown) may, in so far as circumstances will admit, be in the form following, that is to say:—

"Know all men by these presents, that I, A.B., in consideration of paid to me by the contractors for section (or as the case may be,) of the Canadian Pacific Railway the receipt whereof is hereby acknowledged, grant, bargain, sell and convey unto the said contractors for section successors and assigns, all that tract or parcel of land (*describe the land*) to have and to hold the said land and premises unto the said contractors, their successors and assigns for ever.

"Witness my hand and seal, this day of
one thousand eight hundred and .

"Signed, sealed and delivered }
in presence of A.B. [L.S.]

"C.D.

"E.F."

or in any other form to the like effect;

Terms of conveyance of H. M. troops, stores, &c., by contractors.

17. Her Majesty's naval and military forces, whether Imperial or Canadian, regular or militia, and all artillery, ammunition, baggage, provisions, or other stores for their use, and all officers and others travelling on Her Majesty's naval or military or other service, and their baggage and stores shall, at all times, when the contractors shall be thereunto required by one of Her Majesty's principal Secretaries of State, or by the Commander of Her Majesty's forces in Canada, or by the Minister of Militia and Defence of Canada, or by the Chief Naval Officer on the North American Station on the Atlantic or on the Pacific Ocean, be carried on the said railway by the contractors on such terms

and conditions, and under such regulations as the Government shall, from time to time, make;

18. The justices of the peace for any county or district in British Columbia and Manitoba, assembled in general or quarter sessions, shall have the power vested by section forty-nine of "*The Railway Act, 1868*," in the justices so assembled in the Province of Ontario as to the appointment of railway constables, and in places where there are no such sessions, any two justices of the peace in any Province, or in any place not within a Province, shall have the powers given by the said section to any two justices of the peace in Ontario for the appointment and dismissal of any such constables; and where there is no clerk of the peace the record of the appointment of constable shall be dispensed with.

As to exercise of powers of Justices of the Peace under Railway Act.

GENERAL PROVISIONS.

9. Any felony or misdemeanor in contravention of the "Penal Clauses" of "*The Railway Act, 1868*," committed in the Province of Manitoba or British Columbia, shall be tried, punished, and dealt with in such Province, by and before the court or tribunal having cognizance of felonies and misdemeanors respectively (as the case may be), and punished in the manner provided by the said Act; and, if committed in any place not within the Province, may be tried, punished and dealt with by any court having like jurisdiction, in British Columbia, Manitoba or Ontario, in any of which Provinces the offender may be arrested and dealt with as if the offence had been committed there; or he may be arrested in the territory where the offence is committed, and committed by any justice of the peace for such territory for trial at such court, and in such county, district or place in either of the said Provinces as the justice may think most convenient, and to the common gaol whereof he may commit such offender, and authorize his being conveyed by any constable; and if the punishment to which he is sentenced be imprisonment in the penitentiary, and there be no penitentiary in the Province, such imprisonment shall be in the common gaol for the place where he is convicted; and any offence against the said "Penal Clauses," or any other section of the said Act thereby cognizable before a justice or justices of the peace, shall be cognizable before a justice or justices of the peace for the place where the offence is committed; and if any pecuniary penalty be imposed, and there be no party entitled to receive it under the said Act, it shall be paid to the Receiver General, to the credit of the Railway Inspection Fund. And this section shall apply as well to any part of the said railway, constructed by the Government of Canada as a public work, as to any portion thereof constructed by contractors.

As to offences against penal clauses of Railway Act, 1868.

Where triable, &c.

Imprisonment.

Pecuniary penalties.

To apply to any portion made by Govt.

Right of purchase of railway from contractors by Govt. to be reserved.

10. In every contract for the construction of the said railway or of any section or sub-section thereof the Government of Canada shall reserve the right to purchase under the authority of Parliament, the said railway or such section or sub-section thereof, on payment of a sum equal to the actual cost of the said railway, section or sub-section, and ten per cent. in addition thereto,—the subsidies in land and money granted or paid by the Government for the construction of the said railway being first returned or deducted from the amount to be paid, the lands sold being valued at the full amount the contractors may have received from the sale of such land as may have been sold.

As to contracts for any part of main line.

11. No contract for the construction of any portion of the main line of the said railway shall be binding until it shall have been laid before the House of Commons for one month without being disapproved, unless sooner approved by a resolution of the House.

Any portion may be made by Government as a public work if found more advantageous

Provision in such case.

12. In case it shall be found by the Governor in Council more advantageous to construct the said railway or any portion thereof, as a public work of the Dominion of Canada, the construction thereof shall be let out by contracts offered to public competition, and the Governor in Council may establish from time to time the mode and regulations under which the contract shall be given, and the railway or such portion thereof shall be constructed and worked after it shall have been completed, including the rates to be charged for freight and passengers; such regulations not being contrary to any of the provisions of the Acts regulating the Department of Public Works or to any other Act or law in force in the Dominion.

How branch line to Georgian Bay may be made by contractors.

13. The branch railways shall be constructed as follows, that is to say: That section of the first branch extending from the eastern terminus of the first section of the said railway to some point on the Georgian Bay to be fixed as aforesaid, shall be constructed by contractors as a private enterprise on the same terms and conditions as provided with respect to the main line of the said railway, or any section thereof,—or as a public work of the Dominion under such contract or contracts as may be agreed upon and sanctioned by the Governor in Council.

Or as a public work.

Bonuses or subsidies in aid of railways from eastern terminus to existing or proposed railways.

14. The Governor in Council may also grant such bonus or bonuses, subsidy or subsidies to any company or companies already incorporated or to be hereafter incorporated, not exceeding twelve thousand dollars per mile, as will secure the construction of the branch lines extending from the eastern terminus of the said Canadian Pacific Railway to connect with existing or proposed lines of railway; the granting of such bonuses or subsidies to be subject to such

conditions for securing the running powers and other rights over and with respect to the whole or any portion of the said branch railway, to the owners or lessees of the main line of the said railway or of any section thereof, or to the owners or lessees of any other railway connecting with the said branch railway, as the Governor in Council may determine; but every Order in Council granting such subsidy shall be laid before the House of Commons for its ratification or rejection, and shall only be operative after its ratification by resolution of the House.

Conditions.

Ratification by House of Commons required.

15. The Governor in Council may, at any time after the construction of the said branch railway, make with the company or companies owning any portion of the said branch railway, such arrangement for leasing to such company or companies any portion of the said branch railway which may belong to the Government, on such terms and conditions as may be agreed upon,—such lease not to exceed a term of ten years; and may also make such other arrangements as may be deemed advantageous for working the said railway in connection with that portion of the said branch railway belonging to such company or companies: Provided, no such contract for leasing the said branch railway, and no such agreement for working the said railway in connection with any other railway shall be binding until it shall have been laid before the House of Commons for one month without being disapproved unless sooner approved by a resolution of the House.

Arrangements for leasing or working any portion made by Government.

Proviso, for approval of House of Commons.

16. The branch of the said railway, from Fort Garry to Pembina, in the Province of Manitoba, shall be built either as a private enterprise, on the terms and conditions on which the main line may be constructed, or as a public work of the Dominion, under such contract or contracts as may be agreed upon and sanctioned by the Governor in Council.

Branch from Fort Garry to Pembina, how to be made.

17. The Governor, by Order in Council, shall have the right to determine the time when the works on each section or sub-section of the said railway shall be commenced, proceeded with and completed.

Commencement, &c, of works on any section.

18. The contractors shall furnish such information of the progress of the works as may be required by the Minister of Public Works, and such statistical details, accounts and information as may be required from them after completion.

Information to be furnished by contractors.

19. The Minister of Public Works shall, within one month of the opening of each Session, lay before the two Houses of Parliament a report of the progress of the works, and of the sums expended, together with copies of all contracts entered into since the last report made to Parliament,

Report by Minister of P. W. to Parliament at each session.

for the construction of the said railway or any portion thereof, or for the running or working of the same.

Governor in Council may suspend progress of works.

20. The Governor in Council shall have the power at any time to suspend the progress of the work until the then next session of Parliament.

Appropriation for railway out of loan with Imperial guarantee.
37 V., c. 2.

21. Out of the sums of money to be raised under the Act of the present Session, intituled, "*An Act to authorize the raising of a loan for the construction of certain Public Works, with the benefit of the Imperial guarantee for a portion thereof*," and subject to the provisions of the said Act, the Governor in Council may from time to time apply sums not exceeding in the whole two million five hundred thousand pounds sterling out of the sum so raised with the Imperial guarantee, and sums not exceeding in the whole fifteen million dollars out of the sum raised under the said Act without the Imperial guarantee, for the construction of the said railway, and the purposes of this Act.

Out of loan not so guaranteed.

Separate accounts of moneys hereby appropriated.

22. Separate accounts of the money expended under this Act and of the sums proceeding from the sale of any of the lands appropriated by this or any other Act for the constructing or assisting in the construction of the said railway and branches thereof, shall be kept by the Receiver General, and all sums required for the carrying out of this Act shall be paid out of money, mentioned in this or the next preceding section, and not out of any other fund, except that the Governor in Council may (as provided by the Act last cited) authorize the advance, out of the Consolidated Revenue Fund, of such sums as it may be necessary to expend for the purposes aforesaid, before the said loans can be raised,—such sums to be repaid to the Consolidated Revenue Fund out of the loans.

What moneys only shall be applied for carrying out this Act.

Act of 1872, c. 71, repealed.

23. The Act intituled, "*An Act respecting the Canadian Pacific Railway*," passed in the Session of one thousand eight hundred and seventy-two, by the Parliament of Canada, is hereby repealed.

Short title.

24. This Act may be cited as "*The Canadian Pacific Railway Act, 1874*."

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



37 VIC., CHAP. 15.

An Act to amend the Act respecting the construction of the Intercolonial Railway.

[Assented to 26th May, 1874.]

HER Majesty, by and with the advice and consent of Preamble.
the Senate and House of Commons of Canada. enacts
as follows :—

1. Section three of the Act passed in the thirty-first year of Her Majesty's reign, intituled, "*An Act respecting the construction of the Intercolonial Railway*," with so much of any other part of the said Act as authorizes the appointment of any Commissioner or Commissioners for the construction and management of the said railway, or the continuance of any such Commissioner in office, or as may be in any way inconsistent with this Act, shall be repealed upon, from and after the first day of June, in the present year of our Lord one thousand eight hundred and seventy-four; and upon, from and after the said day the said Intercolonial Railway shall be a public work vested in Her Majesty, and under the control and management of the Minister of Public Works, and all works and property real or personal, thereunto appertaining, or constructed or acquired by the Commissioners under the said Act, shall be vested as aforesaid and under the control and management of the said Minister.

31 V., c. 13, s. 3, repealed, and the railway and works transferred to Department of Public Works.

2. All the powers and duties vested or assigned by the Act hereby amended in or to the Commissioners appointed under it, shall, upon, from and after the said day, be transferred to and vested in the Minister of Public Works, and all contracts, bonds, agreements or engagements lawfully entered into, by or with the said Commissioners, as such, shall enure to the use of Her Majesty, and may be enforced and carried out under the authority of the Minister of Public Works, as if they had been entered into with Her Majesty under the authority of the Act passed in the thirty-first year of Her Majesty's reign, intituled, "*An Act respecting the Public Works of Canada*."

Powers and duties of commissioners transferred to Minister of Public Works.

3. The powers of the Commissioners hereby transferred to the Minister of Public Works shall, as respects the said Intercolonial Railway and works, be in addition to any

Powers to be additional to those now vested in the Minister.

powers the said Minister may as such have with respect to the same as a public work under the Act last cited and the Minister may, in any case relating to the said railway and works, exercise any powers given him by either of the Acts hereinbefore cited and applicable to such case.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



37 VIC., CHAP. 16.

An Act to authorize the transfer of the Windsor Branch of the Nova Scotia Railway to the Western Counties Railway Company.

[Assented to 26th May, 1874]

WHEREAS by resolution of the House of Commons, Preamble.
passed on the twenty-third day of May, in the year eighteen hundred and seventy-three, it was resolved: That the Government be authorized to enter into negotiations during the Parliamentary recess with some reliable association or company for the transfer of the railway from Windsor to the trunk line from Halifax to Truro, upon condition that such association or company extend the railway from Annapolis to Yarmouth, subject to the approval of Parliament at the next session; and whereas the Western Counties Railway Company, being a company incorporated under the Act of the Legislature of the Province of Nova Scotia, passed during the session of the year of our Lord eighteen hundred and seventy, having undertaken to build a railway from Annapolis to Yarmouth, have represented that the work has been undertaken and commenced in view of the provisions of the hereinbefore recited resolution of the House of Commons; and whereas the said company being desirous of having the said privilege transferred to them, have proposed for the acceptance of His Excellency the Governor in Council, certain terms of transfer to them of the railway from Windsor to the trunk line from Halifax to Truro; and whereas such proposal was, by Order of the Governor in Council of the twenty-second October, eighteen hundred and seventy-three, adopted, subject to the approval of Parliament; and whereas a further proposal in connection with the transfer of the said railway to the said company was made by the said company and approved by the Governor in Council, by Order in Council on the thirtieth day of October, in the year eighteen hundred and seventy-three; and whereas it is expedient to approve of the said agreements so respectively entered into and adopted as hereinbefore mentioned: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Orders in Council, and agreements recommended.

The said
agreements
confirmed.

1. The agreements hereinbefore referred to, and set forth in the schedules A and B to this Act, being such as were adopted by the Orders of the Governor in Council of the twenty-second and thirtieth days of October, eighteen hundred and seventy-three, and all the matters and things therein contained, are hereby approved and declared to be as effectual to all intents and purposes as if the said agreements had been entered into in pursuance of sufficient authority in that behalf, given before the adoption of such agreements by Act of the Parliament of Canada.

Working
arrangements
until posses-
sion is given
to the W. C.
R. Company.

2. Until arrangements are completed for giving possession to the Western Counties Railway Company of the said Windsor Branch Railway for the purpose of operating it until the completion of their line from Annapolis to Yarmouth, as provided in the agreement or proposal hereinafter recited, it shall be competent for the Government to make such other arrangements as may be necessary by continuing the working of the same by the Windsor and Annapolis Railway Company or otherwise.

SCHEDULE A.

1416. *Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council, on the twenty-second October, eighteen hundred and seventy-three.*

On a memorandum, dated twenty-first October, eighteen hundred and seventy-three, from the Hon. the Minister of Public Works, submitting the accompanying proposal made by the Western Counties Railway Company, of Nova Scotia, and recommending its adoption :

The Committee advise that the accompanying proposal be adopted as recommended, subject to the approval of Parliament.

Certified.

(Signed,) W. A. HIMSWORTH,
Clerk.

To the Honorable
The Minister of Justice,
&c., &c., &c.

Proposal made to His Excellency the Governor General in Council by the Western Counties Railway Company, incorporated under an Act of the Legislature of Nova Scotia, passed in the year of Our Lord One thousand eight hundred and seventy.

Whereas by a resolution passed by the House of Commons in Parliament assembled on the twenty-third day of

May, Anno Domini, eighteen hundred and seventy-three, it was resolved :

That the Government be authorized to enter into negotiations during the Parliamentary recess with some reliable association or company for the transfer of the railway from Windsor to the trunk line from Halifax to Truro, upon condition that such association or company extend the railway from Annapolis to Yarmouth, subject to the approval of Parliament at the next session ;

And whereas the said Western Counties Railway Company have undertaken to build a railway from Annapolis to Yarmouth ; and

Whereas the said work has been undertaken and commenced in view of the provisions of the above resolution ; and

Whereas the said company are desirous of having the said railway, in the said resolution mentioned, transferred to them ;

The said company therefore propose, for the acceptance of His Excellency the Governor General in Council, the following terms of transfer, viz. :—

1st. The said company will undertake to receive the said railway and appurtenances on the first day of December, Anno Domini, eighteen hundred and seventy-three, and from that date to work it efficiently and keep the same in repair at their own proper costs and charges, collecting, receiving and appropriating to their own use all the tolls and earnings of the same ;

2nd. That on the completion of the Western Counties Railway from Yarmouth to Annapolis (now in progress of construction), the said railway and appurtenances from Windsor to the trunk line shall be and become absolutely the property of the said Western Counties Railway Company ;

3rd. That in consideration of the premises, the said company hereby engage to prosecute the work of building the railway from Yarmouth to Annapolis, and complete the same with all reasonable despatch.

Dated at Ottawa, D.C., this twentieth day of October, Anno Domini, eighteen hundred and seventy-three.

(Signed), GEO. B. DOANE,
President, W. C. R. Cy.
JAS. WENT. BINGAY,
Secretary, W. C. R. Cy.

SCHEDULE B.

Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the thirtieth October, eighteen hundred and seventy-three.

On a Memo. from the Hon. the Minister of Public Works, dated twenty-ninth October, eighteen hundred and seventy-

three, reporting that he has received from the Western Counties Railway Company of Nova Scotia (through Mr. George B. Doane, their president) a proposal to the following effect :—

1st. That the Western Counties Railway Company shall carry free of charge, all passengers holding Government tickets, on all their passenger trains running between Halifax and Windsor Junction.

2nd. That the said company or their agents or assigns, shall have running powers over the Intercolonial Railway between Halifax and Windsor Junction, with such privileges as have been hitherto granted in the agreement with the Windsor and Annapolis Railway.

The Committee on the recommendation of the Minister of Public Works, respectfully advise that the terms of the above proposal be approved.

Certified.

(Signed), W. A. HIMSWORTH,
C.P.C.

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37 VIC., CHAP. 17.

An Act to authorize the advance of a certain sum to the Province of British Columbia, for the construction of a Graving Dock at Esquimalt, and for other purposes.

[Assented to 26th May, 1874.]

HER Majesty, by and with the advice and consent of Preamble.
the Senate and House of Commons of Canada, enacts
as follows:—

1. In lieu of the guarantee of interest at the rate of five per cent. per annum for ten years from the completion of the works, on such sum not exceeding one hundred thousand pounds sterling, as may be required for the construction of a first-class Graving Dock at Esquimalt, as provided by the terms of the Order of the Queen in Council for the admission of British Columbia into the Union, advances may be made from time to time by the Governor in Council out of the Consolidated Revenue Fund, for the construction of such Graving Dock, upon certificates of the progress of the work,—such advances not to exceed in the whole two hundred and fifty-thousand dollars.

Advance of
\$250 000 sub-
stituted for]
guarantee for
graving dock
at Esquimalt.

* * * * *

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



37 VIC., CHAP. 18.

An Act to authorize the purchase of the Pier or Breakwater at Cow Bay, N.S., and to provide for its maintenance.

[Assented to 26th May, 1874.]

Preamble.

WHEREAS it is expedient, in the public interest, that the Government of the Dominion should acquire the property of certain works in the Harbor of Cow Bay, Cape Breton, and that certain tonnage dues should be levied on vessels frequenting that port: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Purchase on valuation by engineers, authorized.

1. The Governor in Council may authorize the acquisition for the Dominion, of the pier or wharf forming the said harbor, from the present proprietors, at a value to be ascertained after examination by the engineers of the Department of Public Works.

Governor in Council may impose harbor dues, &c.

2. The Governor in Council may, from time to time, impose and cause to be levied such tonnage dues, not exceeding ten cents per ton of the registered measurement of each vessel, on all vessels entering the port, and such tolls on merchandize landed on the pier as he may deem reasonable and necessary. All Orders in Council imposing such dues or tolls shall come in force upon their publication in the *Canada Gazette*.

How to be collected and appropriated.

3. The dues and tolls so imposed shall be collected by the Collector of Customs or such other person as may be appointed by the Governor for the purpose; and no vessel shall be entered or cleared without payment of the tonnage dues to which she is liable, which shall be payable once only in each year on all vessels under one hundred tons, and twice in each year on all vessels of or over one hundred tons; the proceeds of such dues and tolls shall be paid to the Receiver General, and form part of the Consolidated Revenue Fund, towards making good the amount which may be expended in acquiring the property of the harbor and maintaining the works.

4. An account of the moneys expended under this Act and of the income received under it, shall be laid yearly before Parliament at the then next Session thereof.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



37 VIC., CHAP. 31.

An Act to amend the "Act respecting the Trinity House and Harbor Commissioners of Montreal."

[Assented to 26th May, 1874.]

Preamble.
36 V., c. 61.

IN amendment of the Act passed in the thirty-sixth year of Her Majesty's Reign, intituled, "*An Act respecting the Trinity House and Harbor Commissioners of Montreal*:" Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

One of the members of the Corporation elected by the Montreal Board of Trade to cease to be such member after Aug. 1, 1874.

1. From and after the first day of August next after the passing of this Act, one of the members of the Corporation of the Harbor Commissioners of Montreal elected by the Montreal Board of Trade (to be determined by ballot by the members of the said Board) shall cease to form part of the said Corporation of the said Harbor Commissioners of Montreal, and so much of the Act cited in the preamble to this Act as is inconsistent with this section, is hereby repealed.

Of whom the Corporation shall afterwards consist.
Proviso.

2. The said Corporation shall thereafter be constituted and consist of nine members, five of whom shall be appointed by the Governor, and the remaining four shall be elected as at present provided by law : Provided always, that the rotation shall be every four years instead of every five years as at present provided.

* * * * *

Salary of Chairman of Harbor Commissioners.

4. The Harbor Commissioners may pay to the chairman of the board, an annual salary not exceeding two thousand dollars out of the revenues of the harbor.

Collector of Customs at any Port to collect tolls upon goods, &c., landed in Harbor of Montreal and forwarded in bond to such port.

5. The Corporation of the Harbor Commissioners of Montreal, may require the collector of Customs at any port to collect on its behalf such portion of the tolls, rates, duties and dues authorized to be levied in the harbor of Montreal as it may be deemed expedient for the convenience of trade to collect through such collector, upon such goods, wares, merchandize and things as may be landed or transhipped within the harbor and forwarded in bond for entry under the Customs laws, to any other port ; and the tolls, rates, duties and dues aforesaid upon any goods, wares, merchan-

dize and things so forwarded as aforesaid shall be payable and may be collected at any such port ; and the provisions of any Act respecting the Corporation of the Harbor Commissioners of Montreal in respect to tolls, rates, duties and dues aforesaid, shall be applicable to any goods, wares, merchandize and things so forwarded, at any such port, as if the same were the port of Montreal.

Certain provisions to apply.

6. The necessary forms of entry of such tolls, rates, duties and dues, shall be furnished by the said Harbor Commissioners to the collector at any port as aforesaid, and it shall be the duty of each collector of Customs to make monthly returns and payment of any sums received by him thereupon to the said Harbor Commissioners.

Collector to make monthly returns to Harbor Commissioners.

7. The twelfth and thirteenth sections of the said Act are hereby repealed, and the provisions respecting elective members of the Corporation, contained in the fourteenth, fifteenth, sixteenth, seventeenth and eighteenth sections of the said Act, shall after the said first day of August next after the passing of this Act, apply only to members of the Corporation representing the shipping interest.

S 12 and 13 of 36 V., c. 61 repealed, and application of others restricted.

8. Anything inconsistent with this Act contained in the Act mentioned in the preamble hereto is hereby repealed.

Inconsistent enactments in 36 V., c. 61 repealed.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



37 VIC., CHAP. 50.

An Act to make further provision for the management of Permanent Building Societies carrying on business in the Province of Ontario.

[Assented to 26th May, 1874.]

Preamble.

WHEREAS it is expedient to make further provision for the management of permanent building societies carrying on business in the Province of Ontario: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Directors may make or amend by-laws, &c., for the working of the society.

Proviso, for confirmation by shareholders.

1. The directors of any such permanent building society may, from time to time, alter, amend, repeal or create any regulation, rule or by-law for the working of any such society: Provided, that such action of the directors shall not have a binding force until confirmed at any general meeting of the shareholders of such society upon a vote of two-thirds of the capital stock represented at such meeting,—notice being given of the proposed changes, in the notice calling such meeting.

Liability of shareholders limited.

2. No shareholder of any such society shall be liable for or charged with the payment of any debt or demand due by such society, beyond the extent of his shares in the capital of such society not then paid up.

Society may lend money to others than its members.

Proviso, as to rules affecting borrowers.

3. Any such society may lend money in conformity with the laws authorizing the establishment of building societies in Canada, and with the by-laws of such society, to any person or persons or body corporate at such rates of interest as may be agreed upon, without requiring any of such borrowers to become subscribers to the stock or members of the said society: Provided always, that all borrowers from any such society shall be subject to all the rules of such society in force at the time of their becoming borrowers, but not to any other rules.

* * * * *

Repayment and recovery of money advanced

5. The principal money so advanced on mortgages may be repaid by means of a sinking fund of not less than two per centum per annum, within such time as the society shall

direct and appoint, and as shall be specified in the mortgage or assignment of mortgage to be made of such real estate, and of such revenues, rates, rents, tolls or profits as herein-after mentioned; and the society may do all acts that may be necessary for advancing money, and for recovery and obtaining repayment thereof, and for enforcing payment of all interest accruing therefrom, or any conditions attached to such advance or any forfeiture consequent on the non-payment thereof, and give all necessary and proper receipts, acquittances and discharges for the same, and do, authorize and exercise all acts and powers whatsoever requisite or expedient to be done or exercised in relation to the said purposes.

6. Section thirty-eight of chapter fifty-three of the Consolidated Statutes for Upper Canada is hereby repealed, subject to the provisions of the twelfth section of this Act, and the following substituted therefor:—

C. S., U. C.
c 53, s. 38 re-
pealed.

“38. It shall be lawful for any such society to receive money on deposit, and also for the board of directors of any such society to issue debentures of such society for such sums, not being less than one hundred dollars, and in such currency as they may deem advisable, and payable in the Dominion of Canada or elsewhere not less than one year from the issue thereof: Provided always, that the aggregate amount of money deposits in the hands of such society, together with the amount of debentures issued and remaining unpaid, shall not at any time exceed the amount of principal remaining unpaid on the mortgages at such time held by such society, and shall not exceed the amount of capitalized, fixed and permanent stock in such society, not liable to be withdrawn therefrom, by more than one-third of the total amount of the said capitalized stock: Provided further, that the amount of cash actually in the hands of any such society, or deposited in any chartered bank, shall be deducted from the sum total of the liabilities which such society may be authorized to incur as above stated:”

New section.

Power to
receive money
deposits and
issue deben-
tures.

Proviso,
limiting
money
deposits.

Proviso, cash
in hands of
society to be
deducted.

The debentures of such society may be in the form of Schedule A to this Act or to the like effect.

Form of
debenture s.

7. Any such society may, and is hereby empowered to demand and receive in advance the half-yearly interest from time to time accruing on any advances of money made by such society under and by virtue of this Act.

Interest to
the society
may be de-
manded in
advance.

8. The president, vice-president and directors of any such society shall have and exercise the powers, privileges and authorities set forth and vested in them by this Act and any other Act regulating such society, subject to the rules or by-laws of such society, and they shall be subject to and be governed by such rules, regulations and provisions as are herein contained with respect thereto and by the by-laws of

Powers of
directors of
society.

such society; and the directors shall and may lawfully exercise all the powers of such society, except as to such matters as are directed by law to be transacted by a general meeting of such society. The directors may use and affix, or may cause to be used and affixed, the seal of such society to any document or paper which in their judgment may require the same; they may make and enforce the calls upon the shares of the respective shareholders; they may declare the forfeiture of all shares on which such calls are not paid; they may make any payments and advances of money they may deem expedient which are or shall at any time be authorized to be made by or on behalf of such society, and enter into all contracts for the execution of the purposes of such society, and for all other matters necessary for the transaction of its affairs; they may generally deal with, treat, sell and dispose of the lands, property and effects of such society, for the time being, in such manner as they shall deem expedient and conducive to the benefit of such society as if the same lands, property and effects were held and owned according to the tenure and subject to the liabilities, if any, from time to time affecting the same, not by a body corporate, but by any of Her Majesty's subjects being of full age. They may do and authorize, assent to or adopt, all acts required for the due exercise of any further powers and authorities which may hereafter be at any time granted to such society by the Parliament of Canada for the performance and fulfilment of any conditions or provisions from time to time prescribed by the said Parliament in giving such further powers and authorities or in altering or repealing the same respectively or any of them.

By-laws and documents of society, when authentic and held to be *primâ facie* evidence.

9. All by-laws of any such society shall be reduced to writing, and shall have affixed thereto the common seal of the society, and any copy or extract therefrom, certified under the signature of the secretary or manager, shall be evidence in all courts of justice in Canada, of such by-laws or extract from them, and that the same were duly made and are in force; and in any action or proceeding at law, criminal or civil, or in equity, it shall not be necessary to give any evidence to prove the seal of such society; and all documents purporting to be sealed with the seal of any such society, attested by the president, treasurer or manager thereof, shall be held *primâ facie* to have been duly sealed with the seal of such society.

C.S., U.C. c. 53, s. 42 repealed.

New section. Society not bound to see to execution of trusts or application of

10. Section forty-two of chapter fifty-three of the Consolidated Statutes for Upper Canada is hereby repealed, and the following substituted therefor:—

“42. Such society shall not be bound to see to the execution of any trust, whether expressed, implied or constructive, to which any share or shares of its stock, or to which any deposit or any other moneys payable or in the hands of

any such society, may be subject ; and the receipt of the party or parties in whose name any such share or shares or moneys stand in the books of the society shall, from time to time, be sufficient discharge to the society for any payment of any kind made in respect of such share or shares or moneys, notwithstanding any trust to which the same may then be subject, and whether or not such society has had notice of such trust ; and the society shall not be bound to see the application of the money paid upon such receipt."

moneys paid
on receipt,
&c.

11. Section twenty of chapter fifty-three of the Consolidated Statutes for Upper Canada is hereby repealed, and the following substituted therefor :—

C. S., U. C. c.
53 s. 20 re-
pealed.

"20. Every such officer or other person, appointed to any office in anywise concerning the receipt of money, shall furnish security to the satisfaction of the directors for the just and faithful execution of the duties of his office according to the rules of the society, and any person entrusted with the performance of any other service, may be required by the directors to furnish similar security."

New section.
Persons in
service of
society to
furnish
security.

12. The sixth section of this Act shall apply only to any such society having a paid-up capital of not less than two hundred thousand dollars in fixed and permanent stock, not liable to be withdrawn therefrom: Provided, that all such societies having a paid-up capital exceeding forty thousand dollars may receive deposits to the amount of their paid up capital, and the remaining sections of this Act shall extend and apply to every such society carrying on business in Ontario, or constituted or incorporated under the provisions of the Acts herein referred to, or of the Consolidated Statutes for Upper Canada, chapter fifty-three, or under any Act of the Legislature of the late Province of Canada, or of the Parliament of Canada ; and any rights, powers or privileges of any such society, contrary to the provisions of this Act, are hereby repealed.

To what
societies only
section 6 of
this Act shall
apply.

13. It shall be lawful for any such society to unite, amalgamate, and consolidate its stock, property, business and franchises with the stock, property, business and franchises of any other such building, saving or loan society, incorporated or chartered within the Province of Ontario, and to enter into all contracts and agreements therewith, necessary to such union and amalgamation.

Amalgama-
tion of two
societies.

14. The directors of the two societies proposing to so amalgamate or consolidate as aforesaid, may enter into a joint agreement under the corporate seals of each of the said corporations,—for the amalgamation and consolidation of the said corporations,—prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number of the directors and other

Joint agree-
ment between
directors of
societies pro-
posing to
amalgamate
or consolidate
their stock,
&c.

officers thereof, and who shall be the first directors and officers thereof and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each of the said corporations into that of the new corporation, and how and when and for how long directors and other officers of such new corporation shall be elected, and when elections shall be held,—with such other details as they shall deem necessary to perfect such new organization and the consolidation and amalgamation of the said corporations, and the after management and working thereof.

To be submitted to stockholders of each society for consideration.

15. Such agreement shall be submitted to the stockholders of each of the said societies at a meeting thereof to be held separately for the purpose of taking the same into consideration; notice of the time and place of such meetings and the object thereof shall be given by written or printed notices, addressed to each shareholder of the said societies respectively at his last known post office address or place of residence, and also by a general notice to be published in a newspaper published at the chief place of business of such societies once a week for two successive weeks. At such meetings of stockholders, such agreement shall be considered, and a vote by ballot taken for the adoption or rejection of the same, —each share entitling the holder thereof to one vote, and the said ballots to be cast in person or by proxy; and if two-thirds of the votes of all the stockholders of such corporations shall be for the adoption of such agreement, then that fact shall be certified upon the said agreement by the secretary of each of such corporations under the corporate seals thereof; and if the said agreement shall be so adopted at the respective meetings of the stockholders of each of the said corporations, the agreement so adopted and the said certificates thereon shall be filed in the office of the Secretary of State of the Dominion of Canada, and the said agreement shall from thence be taken and deemed to be the agreement and act of consolidation and amalgamation of the said societies; and a copy of such agreement so filed, and of the certificates thereon, properly certified, shall be evidence of the existence of such new corporation.

Agreement if adopted, to be filed with Secretary of State.

Upon completion of consolidation the new corporation to possess rights, powers, &c., and be subject to duties, &c., of each of united societies.

16. Upon the making and perfecting of the said agreement and act of consolidation, as provided in the next preceding section and the filing of the said agreement as in the said section provided, the several societies, parties thereto, shall be deemed and taken to be consolidated, and to form one corporation by the name in the said agreement provided, with a common seal, and shall possess all the rights, privileges, and franchises, and be subject to all the disabilities and duties of each of such corporations so consolidated and united, except as herein otherwise provided.

17. Upon the consummation of such act of consolidation as aforesaid, all and singular the business, property, real, personal and mixed, and all rights and interest appurtenant thereto, all stock, mortgages or other securities, subscriptions, and other debts due on whatever account, and other things in action belonging to such corporations or either of them, shall be taken and deemed to be transferred to and vested in such new corporation without further act or deed: Provided however, that all rights of creditors and liens upon the property of either of such corporations, shall be unimpaired by such consolidation, and all debts, liabilities and duties of either of the said corporations shall thenceforth attach to the new corporation, and be enforced against it to the same extent as if the said debts, liabilities and duties had been incurred or contracted by it; and provided also, that no action or proceeding legal or equitable by or against the said corporations so consolidated, or either of them, shall abate or be affected by such consolidation, but for all the purposes of such action or proceeding, such corporation may be deemed still to exist, or the new corporation may be substituted in such action or proceeding in the place thereof.

All property and rights vested in new corporation without further act or deed.

Proviso, as to rights of creditors, &c., of either of corporations.

18. The choice and removal of the auditors of the society, the determination as to the remuneration of the directors and of the auditors shall be exercised at general meetings of the society, and the auditors shall not necessarily be shareholders: Provided, that in case of the death or failure to act of any such auditor, the directors may appoint an auditor in his place; and at all meetings of shareholders of the society the shareholders shall have one vote for each share held by them respectively.

Auditors and directors, their appointment remuneration, &c.

* * * * *

SCHEDULE A.

Debenture No.	Transferable.	Society.
Under the authority of an Act of the Parliament of Canada	Victoria, chapter	\$
The president and directors of the		Society
promise to pay to	or bearer, the sum of	
	dollars, on the	day of
in the year of Our Lord one thousand eight hundred and	at the treasurer's office here, with interest at the rate	
of	per cent. per annum, to be paid half-yearly on presentation of the proper coupon for the same as hereunto	
annexed, say on the	day of	, and the
54½	851	

day of _____ in each year at the office of the treasurer here
(or their agents in _____.)

Dated at _____, the _____ day of _____, 18 ____
For the president and directors of the _____ Society.

C. D.
Secretary.

A. B.

COUPON.

No. 1.

\$

Half-yearly dividend due _____ of _____ 18 __, _____ on
Debenture No. _____ issued by this Society on the
day of _____, 18 __, for \$ _____ at _____ per cent. per
annum, payable at the office of the treasurer, _____, (or at
the Society's agents _____.)

For the president and directors.

C. D.
Secretary.

A. B.

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Excellent Majesty.



38 VIC., CHAP. 22.

An Act respecting the Intercolonial Railway.

[Assented to 8th April, 1875.]

WHEREAS it was declared by the one hundred and forty-^{Preamble.}
fifth section of "*The British North America Act, 1867*,"
that it should be the duty of the Government and Parlia-
ment of Canada to provide for the commencement, within
six months after the Union, of a railway connecting the
River St. Lawrence with the city of Halifax in Nova Scotia,
and for the construction thereof without intermission, and
the completion thereof with all practical speed :

And whereas, by an Act of the Parliament of Canada, ^{31 V., c. 13.}
passed in the thirty-first year of Her Majesty's reign, intituled,
"*An Act respecting the construction of the Intercolonial Rail-
way*," it was enacted, that a railway should be constructed
connecting the port of Rivière du Loup, in the Province of
Quebec, with the line of railway leading from the said city
of Halifax, at or near the town of Truro, and that such rail-
way should be styled and known as "*The Intercolonial
Railway*," and should be a public work belonging to the
Dominion of Canada :

And whereas by an Act of the Parliament of Canada, ^{31 V., c. 68.}
passed in the thirty-first year of Her Majesty's reign, and
known as "*The Railway Act, 1868*," the provisions of the
said Act are applied to the said Intercolonial Railway in so
far as they are applicable to the undertaking, and are not
varied by or inconsistent with the Act of the Parliament of
Canada last above cited :

And whereas by an Act passed in the thirty-seventh year of ^{37 V., c. 15.}
Her Majesty's reign, intituled, "*An Act to amend the Act re-
specting the construction of the Intercolonial Railway*," it was
enacted that upon, from and after the first day of June, in
the year one thousand eight hundred and seventy-four, the
said Intercolonial Railway should be a public work vested
in Her Majesty, and under the control and management of
the Minister of Public Works, and that all works and prop-
erty, real or personal, thereunto appertaining or constructed
or acquired under the said Act, should be vested as aforesaid
and under the control and management of the said Minister :

And whereas the Government of the Province of Nova
Scotia, in pursuance of certain Acts of the Legislature of that
Province, enabling them in that behalf, constructed or

caused to be constructed, a line of railway from the harbor of Halifax, *viâ* Truro, to the navigable waters of the harbor of Pictou :

And whereas the Government of the Province of New Brunswick in pursuance of certain Acts of the Legislature of that Province, enabling them in that behalf, constructed or caused to be constructed, a line of railway from the city of St. John to Shediac, in the said Province :

And whereas under the provisions of the one hundred and eighth section of "*The British North America Act, 1867*," and the third schedule to the said Act, the railways hereinbefore mentioned in the Provinces of Nova Scotia and New Brunswick respectively, became and are the property of the Dominion of Canada ; and whereas it is desirable that the said railways situated as hereinbefore described in the said Provinces of Nova Scotia and New Brunswick, respectively, should form part of, and together with the line of railway from Rivière du Loup to Moncton, in the Province of New Brunswick, and from Painsec (a point on the said line from St. John to Shediac), to Truro, should constitute and should be known as "*The Intercolonial Railway*," and be subject to the several provisions of law affecting the same :

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

What lines shall constitute the Intercolonial Railway.

31 V., c. 68.

Lands in N. S. and N. B. not required may be sold.

Inconsistent enactments repealed.

1. The line of railway from Halifax to Pictou, in the Province of Nova Scotia, and the line of railway from the city of St. John to Shediac, in the Province of New Brunswick, together with the line from Rivière du Loup to Moncton, and from Painsec aforesaid to Truro, and all works and property thereunto appertaining, are hereby declared to constitute and form the Intercolonial Railway, and to be vested in Her Majesty and under the control and management of the Minister of Public Works, and shall as such be subject to the provisions of "*The Railway Act, 1868*," in so far as the said Act is, by its provisions, made applicable to the Intercolonial Railway.

2. And whereas certain portions of the lands acquired for the purposes of the said railways in the Provinces of Nova Scotia and New Brunswick, and now vested in Her Majesty, may be found unnecessary for such purposes, Her Majesty may from time to time sell and dispose of the same, and grant letters patent therefor accordingly to the purchasers thereof.

3. All Acts and parts of Acts passed by the Legislature of either of the Provinces of Nova Scotia or New Brunswick in reference to any of the railways or branch lines hereinbefore mentioned, are hereby repealed, in so far as such provisions

are repugnant to the provisions of this Act, except only as respects all acts done, rights acquired, or penalties or forfeitures incurred under the same, as to all which they shall remain in force, and apply as if this Act had not been passed.

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38 VIC., CHAP. 23.

An Act respecting the Lien of the Dominion on the Northern Railway of Canada.

[Assented to 8th April, 1875.]

Preamble.

WHEREAS the lien of the Dominion on the railway and property of the Northern Railway Company of Canada, amounts to the sum of four hundred and seventy-five thousand pounds sterling, and the Government of the Dominion holds also second preference bonds of the company to the amount of fifty thousand pounds sterling, and third preference bonds of the company to the amount of fifty thousand pounds sterling, and it is expedient to make provision for the release of the said lien on the conditions hereinafter mentioned: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

On what conditions the lien of the Dominion may be released.

1. If the said company or any company formed by its amalgamation with any other company under any Act of the present Session, do on or before the first day of April, one thousand eight hundred and seventy-six, or within such extended time as the Governor in Council may grant, not exceeding three months thereafter, pay to the Receiver General of Canada, or to the financial agents of the Dominion in England, the sum of one hundred thousand pounds sterling, such payment shall operate as a full discharge and release of the said lien and of all principal and interest due in respect thereof; and the Receiver General or the said financial agents (as the case may be) shall give the company a certificate of such payment, which shall be sufficient evidence of the discharge of the lien and of all claim in respect thereof: Provided always, that the said bonds of the company held by the Government shall not be affected by the payment aforesaid, but shall hold their present rank and priority in any re-arrangement that may be made of the affairs of the company, and that the accrued interest on the second preference bonds shall be paid under the terms of the several Acts relating to the said railway.

Proviso, the bonds held by Government not to be affected.

Government Director may be appointed: his powers

2. It shall be lawful for the Governor in Council, at any time after the passing of this Act, to nominate and appoint one additional director of the company, who shall, in all

things, have the same powers as an ordinary director, but whose concurrence shall be necessary to any future expenditure upon new works or equipment undertaken after such appointment: Provided, that such right to appoint a Government director, and his right to a seat at the board, shall subsist only so long as the lien of the Dominion shall remain undischarged by the payment that may be made by the company under the provisions hereinbefore contained.

and duration
of office.

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38 VIC., CHAP. 55.

An Act respecting the Trinity House and Harbor Commissioners of Quebec.

[Assented to 8th April, 1875.]

Preamble.

WHEREAS it is expedient that the powers and authorities of the Trinity House of Quebec, together with its property (except as hereinafter provided), should be transferred to and vested in the Quebec Harbor Commissioners, and that the said corporation of the Trinity House of Quebec should be dissolved and should cease to exist; and whereas it is expedient to transfer the administration of the pilot fund from the said Trinity House to the corporation of pilots for and below the harbor of Quebec; and whereas it is also expedient to amend the "*Act further to amend the Acts to provide for the management and improvement of the harbor of Quebec*;" Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Corporation
of Trinity
House, under
12 V., c. 114,
to cease on
1st Jan. 1876.

I. Upon, from and after the first day of January next after the passing of this Act, so much of the Act of the Legislature of the late Province of Canada, passed in the twelfth year of Her Majesty's reign, chapter one hundred and fourteen, and of any Act of the said Legislature of the late Province of Canada, or of the Parliament of Canada, amending the same, as provides for the existence and continuance of a body corporate and politic for the purposes of the said Act, by the name of the Trinity House of Quebec, and so much of the said Acts as makes it lawful for the Governor to appoint a master and wardens, to compose such corporation, and officers, clerks and bailiffs of the same, shall be, and the same is hereby repealed; and upon, from, and after the said day, the said corporation shall be, and the same is hereby dissolved and extinguished, so that the same shall thenceforth wholly and entirely cease to exist, either in name or in deed, and the persons who shall then be respectively the master and wardens of the Trinity House of Quebec, or officers of the said corporation, shall be and they are hereby thenceforward relieved, exonerated and discharged from their and each of their obligation to execute the powers vested in them and each of them by the Act in this section first mentioned or any Act amending the same.

2. *Upon, from and after the said day all and every the powers, authority and jurisdiction, rights, duties and liabilities of the said Trinity House of Quebec, under the said Act, twelfth Victoria, chapter one hundred and fourteen, and any Act or Acts amending the same, or under any Act or Acts of the Legislature of the said late Province, or of the Parliament of Canada, shall become and be transferred to and vested in and shall be exercised and enjoyed, assumed and discharged by the said corporation of the Quebec Harbor Commissioners, created by the Act of the Legislature of the said late Province of Canada passed in the twenty-second year of Her Majesty's reign, chapter thirty-two,—who shall thenceforth be a body corporate and politic, for all and every the purposes of so much of the said Act, twelfth Victoria, chapter one hundred and fourteen, and the Acts amending the same as shall then be and remain unrepealed, as well as for the purposes of the said Act, twenty-second Victoria, chapter thirty-two, and the Acts amending the same; and may use their own common seal in every case requiring the use of a seal under the provisions of the said Act, twelfth Victoria, chapter one hundred and fourteen, as amended by this Act, or by any former Act, in the execution of the powers thereby and hereby conferred upon them; and may do in their own name all and whatsoever the said Trinity House of Quebec are by so much of their said Act of incorporation and Acts amending the same as shall then remain unrepealed, authorized and empowered to do in their said corporate name; and all and every the provisions of so much of the said Act of incorporation and Acts amending the same shall apply to the said Quebec Harbor Commissioners in lieu and stead of the said Trinity House of Quebec; and in and for the performance and discharge of all and every the duties and functions of their respective positions and offices, the chairman of the corporation of the Quebec Harbor Commissioners shall be substituted for the master of the said Trinity House, the other Commissioners for the wardens, the secretary-treasurer of the said Harbor Commission for the secretary-treasurer of the said Trinity House, and the person employed by the said Harbor Commission to perform the duties of a harbor master for the harbor master of the said Trinity House.

Powers and duties of Trinity House transferred to Quebec Harbor Commissioners, on and after the said day.

22 V., c. 32.

12 V., c. 114.

Officers of one corporation substituted for those of the other.

3. Upon, from and after the said day, all moneys and securities for money, and all property belonging to or vested in the said corporation of the Trinity House of Quebec, in trust or otherwise, except such as belong to the Decayed Pilot Fund, as hereinafter mentioned, shall be transferred to and become and be vested in and belong to and be the property of the said corporation of the Quebec Harbor Commissioners, in trust or otherwise, as the case may be, in the same manner and to the same extent, and under and subject

Property of Trinity House vested in Harbour Commissioners, except Pilot Fund, and to be delivered accordingly.

* Section 2, in so far as it constitutes the Quebec Harbor Commissioners the Pilotage Authority of the pilotage district of Quebec, is consolidated.

to the same trusts (if any) as the same shall immediately, before the said day have been vested in or belonged to or been the property of the said corporation of the Trinity House of Quebec; and within three days after the said day all and every the moneys, bonds, debentures and other vouchers of security for money, of or belonging to the said corporation of the Trinity House of Quebec, shall be duly delivered into the hands and possession of the proper members and officers of the said corporation of the Quebec Harbor Commissioners, by the members and officers of the Trinity House of Quebec, or other persons whomsoever in whose hands, custody or possession the same may then be respectively; and the seal of the said last mentioned corporation shall be delivered to the chairman of the corporation of the Quebec Harbor Commissioners, who is hereby authorized and empowered to break the same.

* * * * *

Trinity House
to account to
Corporation
of Pilots for
the said
Fund.

5. The treasurer of the said corporation of the Trinity House of Quebec, in office immediately before the dissolution of that corporation, shall within three days after such dissolution pay over and deliver to the "Corporation of pilots for and below the Harbor of Quebec," all the money, securities for money, and other property of any kind belonging to the said fund for the support of decayed pilots, their widows and children; and shall render to the said last mentioned corporation a full and particular account of such moneys, securities and property, in such form and extending over such period as may be necessary to the full understanding of the state of the said fund, its assets and liabilities; and in default of his so doing, he, or his legal representatives, may, at the suit of the corporation last mentioned, be constrained to perform the obligations hereby imposed upon him, in any way in which an administrator may be compelled to render an account of his administration after the close thereof, and to pay over the balance shown by such account to be in his hands: * *

Certain mem-
bers of Har-
bor Commis-
sion to cease
to be such
from Jan.
1876.

6. From and after the first day of January next after the passing of this Act, the members of the corporation of the Quebec Harbor Commissioners, elected by the Council of the Quebec Board of Trade, the Council of the Lévis Board of Trade, and by the owners, consignees and agents having paid harbor dues on vessels, goods, wares and merchandize, or otherwise, to the amount required by the Act thirty-sixth Victoria, chapter sixty-two, shall cease to form part of the said corporation of the Quebec Harbor Commissioners; and so much of the Act cited in the preamble to this Act as is inconsistent with this section is hereby repealed.

Constitution
of the Cor-

7. The said corporation shall thereafter be constituted and consist of nine members, five of whom shall be ap-

pointed by the Governor; and the remaining four shall consist of one member to be elected by the Council of the Board of Trade of the city of Quebec, one member to be elected by the Council of the Board of Trade of the town of Lévis, and two members representing the shipping interest as defined in the Act cited in the preamble of this Act, and elected in the manner provided by the said Act. * *

Corporation
thereafter.

8. On the first Wednesday in August in the present year one thousand eight hundred and seventy-five (or if that day should be a legal holiday, then on the next following day, not being such holiday), at a meeting to be held in the manner prescribed by the fourth section of the last cited Act (thirty-sixth Victoria, chapter sixty-two), the shipping interest, as defined by the second section of the said Act, shall elect one person only to fill the office of Harbor Commissioner; and the said shipping interest shall thereafter be represented by one Commissioner instead of two as theretofore.

As to next
election of
member for
shipping
interest.
36 V., c. 62.

9. The person so elected under the next preceding section shall hold office for two years, but may be re-elected; and the fifth section of the Act last cited is hereby repealed.

Term of
office:
Section 5,
36 V., c. 62,
repealed.

10. Upon, from and after the said first day of January next, the Quebec Harbor Commissioners shall have power, in their discretion, to dispense with the services of the Harbor Master of the harbor of Quebec, and of the Superintendent of Pilots of the same port, or to retain them, or either of them, in their present capacities respectively; but if so retained, the salaries attached to their offices shall be paid out of the revenue of the Quebec Harbor Commissioners, and not by the Government of Canada.

As to certain
existing
officers of
Trinity House
and their
salaries.

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12. Nothing in this Act shall affect the continuance of any suit, or action, or other legal proceeding to which the said Corporation of the Trinity House of Quebec is or shall be a party, or which may be pending before it on the first day of January, one thousand eight hundred and seventy-six; but every such suit, action and legal proceeding shall be thenceforth deemed to have been taken up by and in the name of, and may be continued by or against, or may be carried on, continued and prosecuted before the said Corporation of the Quebec Harbor Commissioners in the room and stead of the Trinity House of Quebec; and all matters and things which might have been done, and all proceedings which might have been taken or prosecuted, by or before the Trinity House of Quebec, relating to any offences which shall have been committed, or to any matters which shall have happened, or to any pilotage or other moneys

Actions, &c.,
by or against
Trinity House
continued.

And other
proceedings.

which shall have become due, or to any fines or penalties which shall have been incurred, before the said first day of January next, may be done, taken and prosecuted, and the offences may be dealt with and punished, and the pilotage and other moneys may be recovered and dealt with, and the fines and penalties may be enforced and applied, thereafter, by or before the Quebec Harbor Commissioners.

No new Corporation.

13. Nothing in this Act shall be construed as making the Quebec Harbor Commissioners a new corporation.

Yearly report to Minister of Marine and Fisheries.

14. The Quebec Harbor Commissioners shall within seven days after the first of January in every year, make a report of their doings in office during the preceding calendar year to the Minister of Marine and Fisheries, and shall also furnish him with an account in detail of their receipts and expenditure during the same period, in such form as the Minister may direct.

* * * * *

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



38 VIC., CHAP. 56.

An Act respecting the Graving Dock in the Harbor of Quebec, and authorizing the raising of a loan in respect thereof.

[Assented to 8th April, 1875.]

WHEREAS by an Act passed in the thirty-sixth year of Her Majesty's reign, intituled, "*An Act further to amend the Acts to provide for the management and improvement of the Harbor of Quebec*," the corporation of the Quebec Harbor Commissioners were authorized to borrow, at a rate of interest not exceeding six per cent. per annum, such sums of money as, with any sums voted by the Parliament of Canada or granted for the purpose by Her Majesty's Imperial Government, would be sufficient to defray the cost of constructing a graving dock in the harbor of Quebec, as therein mentioned; and whereas it is expedient that the loan for such purpose should be raised by the Government of Canada and that the power in respect thereof granted to the Quebec Harbor Commissioners by the above recited Act should be repealed: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

- 1.** The twenty-third section of the Act hereinbefore firstly recited, is hereby repealed. Sect. 23 of 36 V., c. 62, repealed.
- 2.** It shall be lawful for the Governor in Council to raise, by way of loan, such sum not exceeding five hundred thousand dollars, as may, with other sums voted by the Parliament of Canada, or granted by Her Majesty's Imperial Government for the same purpose, be requisite to defray the expense of constructing a graving dock in the harbor of Quebec,—such loan to be raised by the issue of debentures bearing interest payable half-yearly at a rate not exceeding five per cent. per annum. Governor in Council may authorize a loan not exceeding \$500,000 at not over 5 per cent. interest.
- 3.** The Minister of Finance shall not pay to the Quebec Harbor Corporation any moneys under this Act until the location and dimensions of the said graving dock, and the location, plan and specifications and proposed contract for the construction thereof, shall have been approved by the Governor in Council, upon the joint report and recom- Condition of advance for dock.

mendation of the Ministers of Marine and Fisheries and of Public Works; and any moneys to be hereunder paid to the Quebec Harbor Corporation shall be so paid from time to time as the work proceeds, upon the report of the Minister of Public Works that such progress is satisfactory.

Power to levy
tolls for use
of dock.

4. The Quebec Harbor Corporation may, from time to time, by by-law, impose tolls, duties and dues upon vessels using the said graving dock; and every such by-law to impose tolls, duties and dues as aforesaid, shall be subject to the approval of the Governor General in Council; and all provisions in any Acts in force, conferring power upon the said Quebec Harbor Corporation in respect to tolls, shall apply to the by-laws to be passed under this section.

Application
of net pro-
ceeds of tolls.

Interest.

Sinking
fund.

5. The net income to be received from any such tolls, rates, duties or dues as aforesaid, shall be paid over to the Receiver General, and by him applied in the first instance to the payment of the interest, at a rate of not exceeding five per cent. per annum, upon the said sum of five hundred thousand dollars, or such amount thereof as may have been paid by the Minister of Finance under this Act; and, secondly, to the formation of a sinking fund for payment of the principal sum of five hundred thousand dollars, or such amount thereof as may have been so paid by the Minister of Finance; and the same shall, in the order of priority previously hereinbefore mentioned, be respectively charged upon the net income of the Quebec Harbor Corporation in respect of such graving dock.

If the net
proceeds will
not pay in-
terest and a
sinking fund.

6. In case the net income received in respect of the use of the said graving dock be not in any year sufficient to meet the interest upon the principal sum of five hundred thousand dollars, or such amount thereof as may have been paid by the Minister of Finance, the Quebec Harbor Commissioners shall, out of the general funds of the said corporation, pay a sum not exceeding ten thousand dollars per annum until the debt to the Government is paid, in respect of the same; and such sum of ten thousand dollars per annum shall be a charge upon the moneys and funds of the Quebec Harbor Corporation next after the charges now existing upon the same, under any Act or Acts in force relating to the said corporation.

Precedence of
H. M. ships in
use of dock.

7. Any ships belonging to Her Majesty, or to the Dominion of Canada, shall at all times have precedence in the use of the said graving dock, when required by the Minister of Marine and Fisheries.

35 V., c. 6, to
apply to loan.

8. The Act passed in the thirty-fifth year of Her Majesty's reign, intituled, "*An Act respecting the Public Debt and the*"

raising of loans authorized by Parliament." shall apply to any loan to be raised as aforesaid, subject to the special provisions of this Act.

9. In this Act the words "Quebec Harbor Corporation," shall mean the Corporation of the Quebec Harbor Commissioners. Interpretation.

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39 VIC., CHAP. 6.

An Act to amend the Act thirty-eighth Victoria, chapter twenty-three, respecting the Northern Railway of Canada.

[Assented to 12th April, 1876.]

Preamble.

38 V., c. 23.

IN amendment to the Act passed in the thirty-eighth year of Her Majesty's reign, and intituled, "*An Act respecting the lien of the Dominion on the Northern Railway of Canada*," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Time for
payment of
£100,000 stg.
extended.

Interest from
1st July,
1876.

1. The time allowed by the first section of the said Act, for the payment by the Northern Railway Company of Canada of the sum of one hundred thousand pounds sterling, in the manner and with the effect mentioned in the said section, is hereby extended to the first day of November now next, or to such further period as the Governor in Council may deem expedient, not later than six months after the said day : Provided always, that interest at the rate of six per centum per annum for the time of forbearance, after the first of July next, shall be payable on the said sum of one hundred thousand pounds sterling.

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39 VIC., CHAP. 16.

An Act respecting the Intercolonial Railway.

[Assented to 12th April, 1876.]

WHEREAS by an Act passed in the thirty-eighth year of Her Majesty's reign, intituled, "*An Act respecting the Intercolonial Railway*," it is amongst other things in effect enacted and declared that the line of railway from Halifax to Pictou, in the Province of Nova Scotia, together with other lines of railway in the said Act mentioned, and all works and property thereunto appertaining, constitute and form the Intercolonial Railway, and are vested in Her Majesty and under the control and management of the Minister of Public Works; and whereas doubts may arise whether the railway line and works now under course of construction from Richmond Station in the city of Halifax, to North Street in the said city of Halifax, come within the designation of, and constitute and form part of the Intercolonial Railway under the said Act, and it is desirable to remove such doubts: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

1. The line of railway from Halifax to Pictou mentioned in the first section of the said Act, comprises the said line from Richmond Station to North Street in the city of Halifax, forming part of the Intercolonial Railway within the meaning of the said Act, which shall be read and construed accordingly.

Line from Richmond Station to North Street, Halifax, is part of the said Railway.

2. Inasmuch as the Intercolonial Railway is a public work of Canada, the Minister of Public Works has, and he may at his option exercise, with respect to the same or the construction, maintenance or amendment of the same, or any part thereof, or in any respect whatsoever connected therewith, any of the rights, powers and authorities granted and conferred in and by the Act passed in the thirty-first year of Her Majesty's reign, intituled, "*An Act respecting the Public Works of Canada*."

Minister may exercise, as to the said Railway, the powers given by 31 V., c. 12.



39 VIC., CHAP. 17.

An Act respecting the Desjardins' Canal.

[Assented to 12th April, 1876.]

Preamble.

Recital of
Act of U. C.
7 Geo. IV., c.
18.

WHEREAS by an Act of the Legislature of the late Province of Upper Canada, passed in the seventh year of the reign of His Majesty, King George the Fourth, chapter eighteen, after reciting that public benefits were expected to be derived from connecting Burlington Bay with Lake Ontario, and in order that those benefits might be more generally extended to the surrounding country, it was of manifest importance to form a water communication or canal sufficient for the passage of sloops and other vessels of burden, from the said bay to the village of Cootes Paradise, through the intervening marsh and other lands, and further reciting that Peter Desjardins and others, had petitioned the Legislature to be by law incorporated for the purpose of effecting by means of a joint capital or stock, such water communication or canal from the said bay to the said village;—it is in effect enacted, that certain persons therein named were constituted and declared to be a body corporate and politic, by the name of the “Desjardins’ Canal Company;” and it is further by the said Act enacted that the company should have full power and authority for the purposes of forming and completing the said canal, to purchase and hold in their corporate capacity such real estate as might be necessary for all the purposes of the said canal and of the said Act; and it is further in effect enacted, that the said Act now in recital should continue in force for fifty years from the time of the passing thereof, and from thence to the end of the then next ensuing Session of Parliament, at which time the estate, rights, titles, tolls and rates of the said canal, with the waters and navigation thereof, should vest in His Majesty, His heirs and successors, to and for the use of the said late Province of Upper Canada in manner aforesaid, unless otherwise provided for by any Act of the Legislature, to be for that purpose at any time thereafter enacted:

Canal vested
in the Crown
at the end of
the session of
Parliament
next after
fifty years

And whereas the estate, rights, titles, tolls and rates of the said canal, with the waters and navigation thereof, will at the end of the Session of Parliament next ensuing the thirtieth day of January, in the year one thousand eight hundred and seventy-six (being fifty years from the time of

the passing of the said Act hereinbefore in part recited) vest in Her Majesty, Her heirs and successors, to and for the use of Canada, unless otherwise provided for by any Act for that purpose to be enacted: from passing the said Act.

And whereas the said Desjardins' Canal will, from the date last hereinbefore mentioned, become a public work of Canada, and as such be and continue vested in Her Majesty and under the control and management of the Minister of Public Works; and it is expedient that the Minister of Public Works should be authorized to enter into arrangements and upon the completion of such arrangements to grant, transfer and convey the said Desjardins' Canal, as is hereinafter authorized: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Canal will then be a public work of Canada.

1. The fifty-second, fifty-third, fifty-fourth, fifty-fifth, fifty-sixth and fifty-seventh sections of the Act passed in the thirty-first year of Her Majesty's reign, and intituled, "*An Act respecting the Public Works of Canada*," shall apply to the Desjardins' Canal, which shall, after the expiration of the said charter, be deemed a public work of Canada, and may be dealt with and treated as if it were in the said sections of the said Act specially mentioned. Certain sections of 31 V, c. 12, to apply to it.

2. In the event of any grant, transfer or conveyance of the Desjardins' Canal, in pursuance of the authority contained in the said sections of the said Act, the tariff of tolls to be imposed in respect of the use of the said Desjardins' Canal and its appurtenances, shall be, from time to time, submitted to the Governor, and no tolls shall be collected unless the rates be first approved by the Governor in Council. Provision in case of its transfer under the said sections.

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39 VIC., CHAP. 38.

An Act to remove doubts under the Acts therein mentioned, respecting the Harbor Commissioners of Montreal, and to amend the same.

[Assented to 12th April, 1876.]

Preamble.

36 V., c. 61.

37 V., c. 31.

FOR the removal of doubts under the Act passed in the thirty-sixth year of Her Majesty's reign, intituled, "*An Act respecting the Trinity House and Harbor Commissioners of Montreal*," hereinafter referred to as "*The Act of 1873*,"—and the Act passed in the thirty-seventh year of Her Majesty's reign, intituled, "*An Act to amend the Act respecting the Trinity House and Harbor Commissioners of Montreal*," hereinafter referred to as "*The Act of 1874*:" Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

Intent of the said Acts declared. Members and term of office.

1. It was and shall be held to have been the intent of the said Acts:—that the four members of the Corporation of the Harbor Commissioners of Montreal (hereinafter referred to as "*the corporation*") elected respectively by the Montreal Board of Trade, the Montreal Corn Exchange Association, the Montreal City Council and the Shipping Interest, should respectively be elected on the first Monday in August (or if that day were a legal holiday, then on the next following day not being so), as provided by the Act of 1873, subject to the provisions hereinafter made as to the present members; and that each of them should hold office until the like day in the fourth year from his election, when he should go out of office, but might be re-elected.

Resignation of elective members.

Vacancies, how filled.

Error in 37 V., c. 31, s. 7, corrected.

2. Any elective member of the corporation may resign his office by notifying his resignation to the body by which he was elected, in such manner as they may prescribe by by-law; and the vacancy thereby occasioned, or happening in any other manner, shall be filled up in the manner provided by the Act of 1873, the fourteenth, fifteenth, sixteenth, seventeenth and eighteenth sections whereof are hereby declared to have been inadvertently restricted by the seventh section of the Act of 1874, and shall be, and shall be held to have remained in force as to all the elective members, notwithstanding anything in the said seventh section.

3. The third section of the Act of 1874 is hereby repealed ; and to establish the order of rotation among the members of the corporation, the present members shall respectively go out of office as follows :—

Sec. 3 of 37
V., c. 31,
repealed.

The member representing the Shipping Interest, in August, 1876 ; the member representing the City Council, in August, 1877 ; the member representing the Board of Trade, in August, 1878 ; and the member representing the Corn Exchange in August, 1879.

Rotation in
office.

4. This Act shall be construed as one Act with the said Acts of 1873 and 1874 ; and anything done or any action taken by the Governor, the Minister of Marine and Fisheries, the City Council, the Board of Trade, the Corn Exchange Association, the Shipping Interest "or the corporation," in conformity to the intent of the said Acts as hereby declared, is hereby confirmed and shall be and be held to have been lawful and valid.

Construing
this Act.
Confirmation
things done.

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39 VIC., CHAP. 39.

An Act to remove doubts under the Acts therein mentioned respecting the Corporation of the Quebec Harbor Commissioners.

[Assented to 12th April, 1876.]

Preamble.
36 V., c. 62.

38 V., c. 55.

FOR the removal of doubts under the Act passed in the thirty-sixth year of Her Majesty's reign, intituled, "*An Act further to amend the Acts to provide for the management and improvement of the Harbor of Quebec*," hereinafter referred to as "The Act of 1873," and the Act passed in the thirty-eighth year of Her Majesty's reign, and intituled, "*An Act respecting the Trinity House and Harbor Commissioners of Quebec*," hereinafter referred to as "The Act of 1875": Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

Intent of the said Acts explained.

Retirement of members.

1. It was and shall be held to have been the intent of the said Acts:—

1. That all the members of the Corporation of the Quebec Harbor Commissioners elected by the Council of the Board of Trade of the city of Quebec, and by the Council of the Board of Trade of the town of Lévis, and by the Shipping Interest, except the member elected by the Shipping Interest in August last under the Act of 1875, should go out of office on the first day of January, 1876:

Appointment of additional members by Governor in Council.

2. That after the day last mentioned the Governor should have power to appoint one member of the said corporation, in addition to the four whom he could appoint under the Act of 1873, and that the offices of all the other members of the corporation except the members elected by the Shipping Interest in August last, being then vacant, the Council of the Board of Trade of the city of Quebec, and the Council of the Board of Trade of the town of Lévis, and the Shipping Interest, had each the power to elect one member of the said corporation,—the member elected by the Shipping Interest in August last remaining in office for two years from the time of his election:

Provision in case of failure of election.

3. That if any of the said bodies should fail to elect their member or members within fourteen days after the occurrence of vacancies on the first day of January, 1876, or if such election should not be forthwith certified to the Min-

ister of Marine and Fisheries, as required by section seven of the said Act of 1873, the Governor should have power to appoint the member or members to fill such vacancy or vacancies, under section eight of the said Act :

4. That up to the said first day of January, 1876, the elections and appointments of members of the said corporation should be made as if the Act of 1875 had not been passed, except that one member should be elected by the Shipping Interest in August, 1875, to remain in office two years ; that the other members representing the Shipping Interest should go out of office at the time appointed for the said election ; that the said Interest should be represented thereafter (but only until the 1st of January, 1876) by one member instead of three as theretofore, (the word "two" being inserted instead of "three" in the last line but one of section eight of the said Act by a clerical error) ; and that on and after the first of January, 1876, the said Shipping Interest should be represented by two members.

Election and appointment up to 1st Jan. 1876.

Clerical error corrected.

5. That vacancies in the corporation do not prevent or impair the effect of its action in any matter, provided there be a quorum of five members present at the meeting at which such action is taken, and that a majority of them are in favor of such act, as provided by section ten of the Act of 1873.

Vacancies not to affect actions of a quorum.

6. That the said corporation should consist of nine members, exclusive of the chairman of the corporation of pilots for and below the Harbor of Quebec, who is *ex officio* a member of the Corporation of the Quebec Harbor Commissioners, but as respects pilotage matters only.

Number of members.

2. And for supplying provisions omitted in the said Act of 1875, it is enacted, that section six of the Act of 1873 be and the same is hereby repealed, and that the members of the said corporation elected in January, 1876, and the member elected by the Shipping Interest in August, 1875, and any members appointed by the Governor in place of any who have not been elected, or whose offices have become vacant, shall respectively hold office as follows, that is to say :—

Omission in 38 V., c. 55, supplied.

The member representing either of the said Boards of Trade until the first Monday in August in the year 1877, and the members representing the Shipping Interest until the first Wednesday in the same month in the same year, (or if either of the said days be a legal holiday, then until the next following day not being such holiday) ; and others shall then be elected in their stead by the bodies they respectively represented, and shall hold office until the like day of the week and month, in the third year from that in which they are elected, when they shall retire and others shall be elected in their stead ; and to such elections and to the filling of vacancies among elective members the provisions of the said Act of 1873 in like matters, not inconsistent with this Act, shall apply,—members of the said

Terms of office of elected members.

corporation appointed by the Governor otherwise than for filling vacancies in default of election or certificate thereof, being appointed and holding office as provided by the said Act of 1873.

Act to be
construed as
one Act with
those of 1873
and 1875, &c.

3. This Act shall be construed as forming one Act with the said Acts of 1873 and 1875, and any thing done or action taken by the Governor or Minister of Marine and Fisheries, or by the said corporation, or by either of the said Boards of Trade, or by the said Shipping Interest, in conformity to the intent of the said Acts as hereby declared, is hereby confirmed and shall be held to be and to have been lawful and valid.

Power to pay
a salary to
their chair-
man.

4. The Harbor Commissioners may pay to the chairman of the board an annual salary not exceeding two thousand dollars out of the revenues of the harbor.

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40 VIC., CHAP. 3.

An Act respecting the Great Seals of the Provinces of
Canada, other than Ontario and Quebec.

[Assented to 28th April, 1877.]

WHEREAS doubts have arisen as to the power of appoint- Preamble
ing and altering the Great Seals of the Provinces
other than Ontario and Quebec, and also as to the validity of
instruments sealed with the Seal heretofore used as the
Great Seal of the Province of Nova Scotia ; and whereas it
is right that all the Provinces should be upon the same
footing with respect to their Great Seals ; and whereas the
Legislature of the Province of Nova Scotia has passed an
Act empowering the Lieutenant-Governor in Council to
alter the Great Seal, and also an Act validating all instru-
ments sealed with the seal heretofore used as the Great
Seal ; and whereas the Legislative Council and Assembly
of Nova Scotia have passed addresses to Her Majesty, pray-
ing for legislation in the Parliament of the United Kingdom
to the same intent ; and whereas it is expedient, so far as
the Parliament of Canada may have power to act in the
premises, to remove the said doubts : Therefore Her Majesty,
by and with the advice and consent of the Senate and
House of Commons of Canada, enacts and declares as
follows :—

1. The Lieutenant-Governor of each Province in Council has the power of appointing and of altering from time to time the Great Seal of the Province. Lieutenant Governors in Council may appoint and alter Great Seals.
2. All instruments sealed with the seal heretofore used as the Great Seal of the Province of Nova Scotia are hereby declared to have been and to be legal and valid, notwithstanding any doubt which may exist as to such seal being the Great Seal. Instruments bearing former Great Seal of Nova Scotia valid.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most
Excellent Majesty.



40 VIC., CHAP. 46.

An Act to authorize the transfer of the Truro and Pictou Branch of the Intercolonial Railway to the person or Company constructing a line of Railway from New Glasgow to the Strait of Canso, and providing a proper ferry across the Strait.

[Assented to 28th April, 1877.]

Preamble.

Resolution,
H. C. 19th
May, 1874.

Negotiations
under it.

Offer of E. R.
Burpee & Co.

Order in
Council, 7th
Feb., 1876.

Notice to
Government
of Nova
Scotia.

Proposed
conditions
of transfer.

WHEREAS by a resolution of the House of Commons, passed on the nineteenth day of May, in the year eighteen hundred and seventy-four, it was resolved: "That the Government be authorized to negotiate during the Parliamentary recess for the transfer of the railway from Truro to Pictou to some organized company, on condition that such company will extend the said railway from New Glasgow, or Pictou, to the Gut of Canso, or some place in Cape Breton, within a specified time,—such transfer to be subject to the approval of Parliament at the next Session;" and whereas, although negotiations had taken place between the Dominion Government and parties interested in the railway system of Cape Breton, and although the Government of Nova Scotia had obtained legislative authority for the payment of a certain bonus to any company which should construct such line, the Dominion Government had not received any definite offer from any company or individuals, which could possibly secure the extension of the railway system from the neighborhood of New Glasgow to any place in Cape Breton; and whereas an offer was received from Messrs. E. R. Burpee and Company, representing the Eastern Counties Railway Company, to undertake the construction of a line of railway as far as the Strait of Canso, on condition of the transfer to such company of the Truro and Pictou Branch of the Government railways, under the resolution of the House of Commons of the nineteenth May, one thousand eight hundred and seventy-four; and whereas an Order of the Governor in Council was passed on the seventh day of February, eighteen hundred and seventy-six, authorizing notice to be sent to the Government of Nova Scotia that the Dominion Government would be prepared to submit a proposition to Parliament for the transfer of the Truro and Pictou Branch Railway to a company undertaking the construction of a line in extension thereof to the Strait of Canso, and from thence to West Bay,

at the head of Bras d'Or Lake, including a steam ferry across the strait,—the other conditions being, that such company should be bound to give running powers over its road from the Strait of Canso to New Glasgow, to any other company extending a railway eastward to Louisbourg, or any other port, upon terms to be determined by mutual agreement, or in case of non-agreement to be determined by arbitration,—and further, that such company should give such other railway company running powers over the Pictou and Truro Branch on certain specified conditions; and whereas the Government of Nova Scotia, apprehending that it would be found difficult to get any company to undertake the extension eastward from New Glasgow, subject to a condition requiring the construction of any portion of railway east of the Strait of Canso, proposed that the transfer of the Pictou Branch should be made on condition of the construction of the said extension eastward to the Strait of Canso only, with a steam ferry across the strait, if the extension further east to a point or points on the Bras d'Or Lake could not be obtained; and whereas the Dominion Government, in view of the very great importance of the early construction of a railway to the strait at least, modified their previous decision of the seventh February, eighteen hundred and seventy-six, by an Order of the Governor in Council of the fifteenth March, eighteen hundred and seventy-six, so as to authorize the transfer of the Pictou Branch to any company which should construct a line of railway from New Glasgow to the Strait of Canso, and maintain a steam ferry across the strait, if it should be found impossible to make arrangements for extension further east, the absolute condition that the line should be carried from the Strait of Canso to West Bay on Bras d'Or Lake being withdrawn, but the other part of the arrangement for giving running powers to any company so extending the railway eastward in Cape Breton being retained; and whereas the Government of Nova Scotia, having been notified of the facts aforesaid, called for tenders for the construction of a railway from New Glasgow to the Strait of Canso (a distance of seventy-five miles) with a steam ferry across the strait, and thence to a point on the Bras d'Or Lake, not exceeding thirty-five miles in length, it being left optional, however, to parties to tender either for the whole of the said work, or only for the section from New Glasgow to Canso, but, in either case, to include the ferry; and whereas the Government of the Dominion was advised by the Nova Scotia Government that they had accepted the tender of Mr. H. Abbott, representing the Halifax and Cape Breton Railway and Coal Company (a company incorporated under an Act of the Legislature of the Province of Nova Scotia,) for the construction of that section only of the railway from New Glasgow to the Strait of Canso, with a steam ferry across the strait, on condition of receiving a subsidy of the sum of

Action of
N. S. Govern-
ment.

Modifications
of conditions.

Order in
Council, 15th
March, 1876.

Tenders
called for by
Government
of N. S.

Tender of
H. Abbott for
Halifax and
Cape Breton
Railway and
Coal Co.,
accepted by
N. S.

Conditions.

Subsidy, &c. seven thousand nine hundred and forty-five dollars per mile, in addition to other subventions mentioned in the advertisement,—one of which is the transfer as a bonus of the

Condition for possession of Truro and Pictou Branch. said company Branch to the said company, and that the said company required, as a condition of entering into the contract, immediate possession of the Truro and Pictou Branch, with a view of availing themselves of its possession to secure the means for proceeding with the extension, and that the said company had made certain proposals which were ultimately embodied in a Minute of Council of the Government of Nova Scotia of the eighth of September last (one thousand eight hundred and seventy-six), with a view of obtaining possession of the said Truro and Pictou Branch on the first of May, eighteen hundred and seventy-seven ; and whereas, after having carefully considered the whole matter, the Government of the Dominion, by an Order of the Governor in Council made on the ninth of November, eighteen hundred and seventy-six, on the report of the Minister of Public Works, modified the terms of the Orders in Council of the seventh of February and fifteenth of March, eighteen hundred and seventy-six, by withdrawing the condition in respect of the grant of running powers to any company extending the line easterly, the whole subject to the approval of Parliament ; and whereas it is expedient to approve and give effect to the agreements and arrangements aforesaid : Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Absolute transfer of Railway on certain conditions.

1. The Pictou and Truro Branch Railway including sufficient land for the purposes thereof, and the stations and buildings thereon necessary for the use of the railway, but without any of the rolling stock, shall be transferred absolutely to the person or company constructing the line from New Glasgow to the Strait of Canso, and providing a proper steam ferry across the strait, as soon as such railway is constructed, with proper rolling stock and other appurtenances, and such ferry provided to the satisfaction of the Minister of Public Works.

* * * * *

Short title.

4. This Act may be cited as “ *The Truro and Pictou Railway Transfer Act, 1877.* ”

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40 VIC., CHAP. 47.

An Act respecting the claim of the Dominion on the Northern Railway Company of Canada.

[Assented to 28th April, 1877.]

WITH reference to the Act passed in the present Session, Preamble.
intituled, "*An Act respecting the Northern Railway* 40 V., c. 57.
Company of Canada," and the Acts respecting the lien of the
Dominion on the said railway : Her Majesty, by and with
the advice and consent of the Senate and House of Com-
mons of Canada, enacts as follows :—

1. The sum of fifty thousand pounds, sterling, of second preference bonds of the Northern Railway Company of Canada, hereinafter called "the Company," now held by the Government of Canada, and being part of a certain sum of two hundred and eighty-three thousand pounds, sterling, of second preference bonds issued by the company, shall hold equal rank and priority with other bonds of the same character, in the arrangement authorized by the Act of the present Session cited in the preamble of this Act ; and the sum of fifty thousand pounds, sterling, of third preference bonds of the company, now held by the Government of Canada, and being part of a certain sum of one hundred thousand pounds, sterling, of third preference bonds issued by the company, together with the interest thereon, shall be extinguished on the following conditions :—

Ranking of second preference bonds held by Government, £50,000 stg.
£50,000 stg. of third preference and interest may be extinguished on certain conditions.

1st. That the company shall, within one year from the first day of May, one thousand eight hundred and seventy-seven, pay to the Receiver General of Canada the sum of forty-five thousand pounds sterling, in cash, with interest from the said day, at the rate of five per centum, per annum :

First condition.

2nd. That the company shall, within the same period, pay to the Receiver General, the sum twenty-seven thousand four hundred and fifty-eight dollars and eighty-seven cents, in satisfaction of the sums improperly applied by the company out of the moneys payable to the Government of Canada, and shall also assign to Her Majesty for the public uses of the Dominion, the mortgage now held by the company on the Couchiching hotel for moneys advanced thereon, with the principal sum secured by the said mortgage, and all interest thereon.

Second condition.

Application
of moneys
received.

2. All moneys received or recovered for the use of the Dominion, under this Act, shall form part of the Consolidated Revenue Fund of Canada.

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40 VIC., CHAP. 48.

An Act to amend the Act thirty-seventh Victoria, chapter fifty, respecting Permanent Building Societies in Ontario.

[Assented to 28th April, 1877.]

IN amendment of the Act passed in the thirty-seventh Preamble.
year of Her Majesty's reign, intituled, "*An Act to make further provision for the management of Permanent Building Societies carrying on business in the Province of Ontario*," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. Where any such society as mentioned in the said Act, thirty-seventh Victoria, chapter fifty, is desirous of changing its name, the Governor General, upon being satisfied that the change desired is not for any improper purpose and is not otherwise objectionable, may, by Order in Council, change the name of the society to some other name set forth in the said order.

Governor in Council may authorize change of name.

2. The society shall give at least four weeks' previous notice in the *Canada Gazette* of the intention to apply for the change of name, and shall state the name proposed to be adopted; in case the proposed name be considered objectionable the Governor in Council may, if he think fit, change the name of the society to some other unobjectionable name without requiring any further notice to be given.

Notice to be given.

Power of Governor.

3. Such change shall be conclusively established by the insertion in the *Canada Gazette* of a notice thereof by the Secretary of State; and his certificate of such change having been made shall be obtained by the society, and filed in the office of the clerk of the peace of the county with whom is filed the declaration constituting such society; the clerk shall, upon payment by the society of a fee of one dollar therefor, endorse a copy of such certificate upon the said declaration; and the society shall (under a penalty of two hundred dollars in case of default) within one month after the insertion of the said notice cause the said certificate to be filed, and require the said endorsement to be made as aforesaid.

How such change of name shall be proved.

Clerk of the Peace to endorse certificate on declaration. Fee.

Penalty for not filing declaration.

Change of
name not to
affect rights.

4. No alteration of its name under this Act shall affect the rights or obligations of any such society, and all proceedings may be continued or commenced by or against any such society by its new name that might have been continued or commenced by or against it by its former name.

Fees for
change of
name.

5. The Governor in Council may establish the fees to be paid on applications for change of name under this Act.

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40 VIC., CHAP. 49.

An Act to amend the “*Act to make further provision for the management of Permanent Building Societies carrying on business in the Province of Ontario.*”

[Assented to 28th April, 1877.]

WHEREAS by section six of the Act passed in the thirty-seventh year of Her Majesty's reign, chapter fifty, as applied by section twelve of the said Act, it is in effect amongst other things enacted, that it shall be lawful for any permanent building society carrying on business in the Province of Ontario and having a paid up-capital of not less than two hundred thousand dollars in fixed and permanent stock, not liable to be withdrawn therefrom, to receive deposits, and also for the board of directors of any such society to issue debentures of such society, provided always, among other conditions, that the aggregate amount of money deposits in the hands of such society, together with the amount of debentures issued and remaining unpaid, shall not, at any time, exceed the amount of capitalized, fixed and permanent stock in such society, not liable to be withdrawn therefrom, by more than one-third of the total amount of the said capitalized stock; and whereas it is expedient that such limitation should be enlarged and that societies having a fixed and permanent paid-up capital, not liable to be withdrawn, of one hundred thousand dollars should be invested with the powers conferred by section six of the said Act: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Notwithstanding anything in the twelfth section of the said Act contained, any society having a fixed and permanent paid-up capital of one hundred thousand dollars, not liable to be withdrawn, may exercise the powers by the sixth section of the said Act conferred, and the term “such society” in the said Act and in this Act shall be held to include any such society as in this section first mentioned.

Society having \$100,000 paid-up, may exercise power under s. 6.

* * * * *

2. The word “society” in this Act shall also include and mean “Company.”

“Society” what to mean.



40 VIC., CHAP. 50.

An Act to make further provision respecting the constituting and management of Building Societies in the Province of Quebec.

[Assented to 28th April, 1877.]

Preamble.

WHEREAS it is expedient to make further provisions respecting the constituting and management of building societies in the Province of Quebec: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Societies may be incorporated by letters patent.

1. The Governor in Council may, by letters patent under the Great Seal, grant a charter to any number of persons not less than thirty who shall present a petition to that effect, constituting such persons and others who may become shareholders in the society by the said letters patent created, a body corporate and politic, the object of which shall be to provide for its members means of investing their savings, to assist them in acquiring immovable property, or in freeing and improving that which they already possess; and to offer to borrowers on the security of immovable property, and of public and other securities, easy terms of loan and repayment; and no building society shall be established in the said Province without such letters patent.

Notice to be given and what it must show.

2. The applicants for such letters patent must give at least one month's previous notice in the *Canada Gazette* of their intention to apply for such charter, stating therein,—

1. The proposed corporate name of the society;

2. The place or places in the Province of Quebec where its operations are to be carried on, with special mention if there be two or more such places, of some one of them as its chief place of business;

3. The intended amount of its capital stock, which shall in no case be less than two hundred and fifty thousand dollars;

4. The number of shares and amount of each share;

5. The names in full and the address and calling of each of the applicants, with special mention of the names of not less than five nor more than nine of their number, who are to be the first directors of the society.

3. At any time, not more than one month after the last publication of such notice, the applicants may petition the Governor General, through the Secretary of State of Canada, for the issue of such letters patent :

Such petition must recite the facts set forth in the notice, and must further state the amount of stock subscribed for and the names of the subscribers, and also the amount paid in upon the stock of each subscriber :

The aggregate of the stock so taken must be at least the one-half of the total amount of stock of the society, and such capital stock shall amount to at least two hundred and fifty thousand dollars :

The aggregate so paid in thereon must be at least twenty per cent. for permanent shares and five per cent. for temporary shares :

Such aggregate must have been paid in to the credit of the society, or of trustees therefor, and must be standing at such credit, in some chartered bank or banks in the said Province :

The petition may ask for the embodying in the letters patent, of any provision which otherwise under this Act might be embodied in any by-law of the company when incorporated.

4. Before the letters patent are issued, the applicants must establish to the satisfaction of the Secretary of State, or of such other officer as may be charged by order of the Governor in Council to report thereon, the sufficiency of their notice and petition, the truth and sufficiency of the facts therein set forth, and that the proposed name is not the name of any other known incorporated or unincorporated society ; and to that end, the Secretary of State, or such other officer, may take and keep of record any requisite evidence in writing, by solemn declaration under the Act thirty-seventh Victoria (1874,) chapter thirty-seven, intituled, "*An Act for the Suppression of Voluntary and Extra-Judicial Oaths*," or by oath or affirmation, and may receive and administer every requisite solemn declaration, oath or affirmation.

Preliminary conditions to be established.

or Proof.

37 V., c. 37.

5. The letters patent shall recite all the material averments of the notice and petition.

What to be recited.

6. Notice of the granting of the letters patent shall be forthwith given by the Secretary of State, in the *Canada Gazette*, in the form of the schedule A appended to this Act ; and thereupon, from the date of the letters patent, the persons therein named and their successors shall be a body corporate and politic by the name mentioned therein.

Notice of granting letters patent.

7. It shall be the duty of the directors to declare and pay half-yearly dividends to the permanent shareholders,

Dividends. Not to impair capital.

Rate limited. of such part of the profits of the society as they shall deem expedient; but no dividend or bonus shall be declared or paid out of the capital stock of the society, nor shall any dividend exceeding eight per cent. per annum be paid until the society has a reserve fund equal to at least twenty per cent. on the paid-up permanent capital stock,—all bad and doubtful debts having, previous to the calculation of such reserve fund, been first deducted.

Increase of capital stock. 8. The capital stock of the society may be increased from time to time by resolution of the directors, who may impose such restrictions and conditions respecting the subscription of such new permanent or temporary shares as they may deem expedient,—such resolution, however, to be approved by the shareholders at a general meeting called for the purpose, and to remain inoperative until so approved.

Powers of Directors. 9. The directors of the society shall exercise all the powers, privileges and authority which are vested in them by this Act and any other Act regulating such society, subject to the rules or by-laws of such society, and they shall be subject to and be governed by such rules, regulations and provisions as are herein contained with respect thereto and by the by-laws of such society; and the directors may lawfully exercise all the powers of such society, except as to such matters as are directed by law to be transacted at a general meeting of such society. The directors may use and affix, or may cause to be used and affixed, the seal of such society to any document or paper which in their judgment may require the same; they may make and enforce the calls upon the shares of the respective shareholders; they may declare the forfeiture of all shares on which such calls are not paid; they may make any payments and advances of money they may deem expedient which are or shall at any time be authorized to be made by or on behalf of such society, and enter into all contracts for the execution of the purposes of such society, and for all other matters necessary for the transaction of its affairs; they may generally deal with, treat, sell and dispose of the lands, property and effects of such society, for the time being, in such manner as they shall deem most advantageous, expedient and conducive to the benefit of such society; they may do and authorize, assent to or adopt, all acts required for the due exercise of any further powers and authorities which may hereafter be, at any time, granted to such society by the Parliament of Canada:

Affixing seal, &c.

Calls.

Payments and advances. Contracts.

Administering property.

Further powers.

By-laws. 2. The directors of any such society may, from time to time, alter, amend, repeal or create any regulation, rule or by-law for the working of any such society, and for the investment or application of its funds: Provided, that such action of the directors shall not have binding force until confirmed at any general meeting of the shareholders of

such society upon a vote of two-thirds of the capital stock represented at such meeting,—notice being given of the proposed changes in the notice calling such a meeting:

3. The directors may also, by by-law, when they deem it expedient to do so, either suspend for a limited time or until further notice, the right of converting accumulated temporary shares into permanent shares, or may permit such conversion, or make it compulsory upon all the shareholders, on such conditions as they may determine: Conversion of shares may be suspended. Provided always, that such by-law shall not have force and effect until it has been confirmed in the manner hereinbefore provided. Proviso.

10. Any such society may lend money to any person or persons or body corporate, without requiring any of such borrowers to become subscribers to the stock or members of the said society: Provided always, that all borrowers from any such society shall be subject to all the rules of such society in force at the time of their becoming borrowers, but not to any other rules: Society may lend money.

2. The society may purchase hypothees on immovable property, debentures of municipal corporations, school sections and school corporations, Dominion or Provincial stock or securities, and they may re-sell any such securities as to them shall seem advisable, and for that purpose they may execute such assignments or other instruments as may be necessary for carrying the same into effect; they may also make advances to any person or persons or body corporate upon any of the above-mentioned securities, at such rates of discount or interest as may be agreed upon: May purchase hypothees and make investments.

3. The principal money so advanced on hypothees may be repaid by means of a sinking fund of not less than two per centum per annum, within such time as the society shall direct and appoint, and as shall be specified in the deed of hypothec or of transfer of hypothec to be made of such immovable property: Sinking fund.

4. The society may also make loans to its members and others on the security of immovable property sold to the society, with right of redemption, on such conditions as may be agreed upon. Sales with right of redemption.

11. The society may hold such immovable property as may be necessary for the transaction of their business, not exceeding in yearly value the sum of ten thousand dollars in all, or as, being hypothecated to them, may be acquired by them for the protection of their investments, and may from time to time, sell, hypothecate, lease or otherwise dispose of the same: Provided always, that it shall be incumbent upon the society to sell any immovable property acquired in satisfaction of any debt within seven years after it shall have fallen to them. Society may hold real property for its own use; and may acquire such when hypothecated to it. Proviso, for sale in such cases.

Society may receive deposits and issue debentures.

And pay interest on deposits.

Form of debentures.

From whom deposits may be received.

Proviso.

Officers to give security.

Provisions as to borrowing money by the society.

20 per cent. paid up.

Amount on debentures limited.

12. It shall be lawful for any such society to receive money on deposit, and also for the board of directors of any such society to issue debentures of such society for such sums not being less than one hundred dollars, and in such currency as they may deem advisable, and payable in the Dominion of Canada, or elsewhere, not less than one year from the issue thereof, or to assign, transfer or deposit, by way of pledge or otherwise, for the sums so borrowed, any of the securities or property of the society, and either with or without power of sale or other special provisions, as the directors shall deem expedient; and the society may receive money on deposit, for such periods and at such rate of interest as may be agreed upon, and money, so received on deposit shall, for the purposes of this Act, be deemed to be money borrowed by the society:

2. The debentures of such society may be in the form of Schedule B to this Act, or to the like effect:

3. And it shall be lawful for the society to receive deposits from any person or persons whomsoever, whatever be his, her or their status or condition of life, and whether such person or persons be qualified by law to enter into ordinary contracts or not; and to pay any part of or all the principal thereof, and the whole or any part of the interest thereon, to such person or persons respectively, without the authority, aid, assistance or intervention of any person or persons, official or officials being required, any law, usage or custom to the contrary notwithstanding: Provided always, that if the person making any deposit in the society be not, by the existing laws of the Province of Quebec, authorized to do so, then the total amount of deposits made by such person shall not exceed the sum of two thousand dollars:

4. Every officer or other person appointed to any office under the society, in any wise concerning the receipt of money, shall furnish security to the satisfaction of the directors for the just and faithful execution of the duties of his office according to the rules of the society; and any person entrusted with the performance of any other service may be required by the directors to furnish similar security.

13. Provided always,—

1. That the society shall not borrow money unless at least one hundred thousand dollars of its subscribed capital stock has been paid up;

2. That the society shall not borrow money unless at least twenty per cent. of its subscribed capital stock has been paid up;

3. That if the society borrow money solely on debentures or other securities, the aggregate amount of the sums so borrowed shall not at any time exceed four times the amount of its paid up and unimpaired capital, or the nominal amount of its subscribed capital, at the option of the society;

4. That if the society borrow by way of deposit, the aggregate amount of the sums so borrowed shall not at any time exceed the aggregate amount of its paid up capital and of its cash actually in hand, or deposited by the society in any chartered bank or banks in Canada ;

Amount on deposit.

5. That if the society borrow money both by way of debentures or other securities, or by guarantee, as aforesaid, and also by way of deposit, then the aggregate amount of money deposits in the hands of the society, together with the amount of debentures and other securities issued by it, as aforesaid, shall not at any time exceed the amount of the principal moneys remaining unpaid on securities then held by the society, nor shall it exceed the then actually paid up and unimpaired capital of the society by more than one-third of such capital ; but the amount of cash then actually in the hands of the society, or deposited by them in any chartered bank, or both, shall be deducted from the aggregate amount of the liabilities which the society has then incurred, as above mentioned, in calculating such aggregate amount for the purposes of this sub-section ;

If they borrow in both ways.

Calculation of liabilities.

6. That no building society shall have power to receive money on deposit, or issue debentures, unless upon the responsibility of its permanent capital stock, and that no accumulating shares, or shares liable to be withdrawn therefrom shall authorize any such society to receive deposits or issue debentures to any amount whatever.

Borrowing to be on permanent stock only.

14. No shareholder of any such society shall be liable for or charged with the payment of any debt or demand due by such society, or held to the payment thereof, beyond the sum not paid up on his shares in the capital of such society.

Liability of shareholders limited.

15. Such society shall not be bound to see to the execution of any trust, whether expressed, implied or constructive, to which any share or shares of its stock, or to which any deposit or any other moneys payable or in the hands of any such society may be subject ; and the receipt of the party or parties in whose name any such share or shares or moneys stand in the books of the society shall, from time to time, be sufficient discharge to the society for any payment made in respect of such share or shares or moneys, notwithstanding any trust to which the same may be subject, and whether or not such society has had notice of such trust : and the society shall not be bound to see to the application of the money paid upon such receipt.

Society not bound to see to trusts.

16. It shall be lawful for the society to unite, amalgamate and consolidate its stock, property, business and franchises with those of any other society incorporated or chartered to transact a like business, and any other business in connection with such business, or any building, savings or loan company or society heretofore or hereafter incorpo-

Provisions for amalgamation of two Societies.

rated or chartered, or to purchase and acquire the assets of any such company or society, and to enter into all contracts and agreements therewith necessary to such union, amalgamation, consolidation, purchase or acquisition.

Joint agreement between directors of societies proposing to amalgamate or consolidate their stock, &c.

17. The directors of the society, and of any other such company or society may enter into a joint agreement under the corporate seals of each of the said corporations for the union, amalgamation or consolidation of the said corporations, or for the purchase and acquisition, by the society, of the assets of any other such company or society, prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number of the directors and other officers thereof, and who shall be the first directors and officers thereof, the manner of converting the capital stock of each of the said corporations into that of the new corporation, with such other details as they shall deem necessary to perfect such new organization, and the union, amalgamation and consolidation of the said corporations, and the after management and working thereof,—or the terms and mode of payment for the assets of any other such company or society purchased or acquired by the society.

To be submitted to stockholders of each society for consideration.

18. Such agreement shall be submitted to the shareholders of each of the said corporations at a meeting thereof to be held separately for the purpose of taking the same into consideration. Notice of the time and place of such meetings, and the objects thereof, shall be given by written or printed notices addressed to each shareholder of the said corporations respectively, at his last known post office address or place of residence, and also by a general notice to be published in a newspaper published at the chief place of business of such corporations, once a week, for six successive weeks. At such meetings of shareholders such agreement shall be considered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote, and the said ballots being cast in

Votes on it by ballot.

Agreement, if adopted, to be filed with Secretary of State.

person or by proxy; and if two-thirds of the votes of all the shareholders of such corporations shall be for the adoption of such agreement, then that fact shall be certified upon the said agreement, by the secretary of each of such corporations, under the said corporate seals thereof; and if the said agreement shall be so adopted at the respective meetings of the shareholders of each of the said corporations, the agreement so adopted and the said certificates thereon shall be filed in the office of the Secretary of State of Canada, and the said agreement shall thenceforth be taken and deemed to be the agreement and act of union, amalgamation and consolidation of the said corporations, or the agreement and deed of purchase and acquisition by the society, of the assets of such company so selling, as the case may be, and a copy

of such agreement so filed, and of the certificates thereon properly certified, shall be evidence of the existence of such new corporation : Provided nevertheless, that due proof of the foregoing facts shall be laid before the Governor in Council, and, if deemed expedient by the Governor in Council, letters patent shall be issued, and notice thereof duly published by the Secretary of State in the *Canada Gazette*, after which the new corporation may transact business.

Proviso, as to proof.

19. Upon the making and perfecting of the said agreement and act of consolidation, as provided in the next preceding section, the several societies, parties thereto, shall be deemed and taken to be consolidated and to form one corporation by the name in the said agreement provided, with a common seal, and shall possess all the rights, privileges and franchises of each of such corporations.

Upon completion of consolidation the new corporation to possess rights, powers, &c., of each of united societies.

20. Upon the consummation of such act of consolidation as aforesaid, all and singular the business, property, moveable and immovable, and all rights and incidents appurtenant thereto, all stock, hypothecs or other securities, subscriptions and other debts, due on whatever account, and other things in action belonging to such corporations or either of them, shall be taken or deemed to be transferred to and vested in such new corporation without further act or deed : Provided however, that all rights of creditors and liens upon the property of either of such corporations shall be unimpaired by such consolidation, and all debts, liabilities and duties of either of the said corporations shall thenceforth attach to the new corporation and be enforced against it to the same extent as if the said debts, liabilities and duties had been incurred or been contracted by it ; and provided also, that no action or proceeding, legal or equitable, by or against the said corporations so consolidated, or either of them shall abate or be affected by such consolidation, but for all the purposes of such action or proceeding such corporation may be deemed still to exist ; or the new corporation may be substituted in such action or proceeding in the place thereof.

All property and rights vested in new corporation without further act or deed.

Proviso.

Proviso.

21. The choice and removal of the auditors of the society, the determination as to the remuneration of the directors and of the auditors, shall be exercised at general meetings of the society, and the auditors shall not necessarily be shareholders : Provided, that in case of the death or failure to act of any such auditor, the directors may appoint an auditor in his place ; and at all meetings of shareholders of the society the shareholders shall have one vote for each share held by them respectively.

Auditors and directors, their appointment, remuneration, &c.

22. Such society shall, on or before the fifteenth day of February in each year, transmit to the Minister of Finance

Annual statement of assets and

liabilities to be transmitted to Minister of Finance.

What to contain.

a full and clear statement of their assets and liabilities on the day of the date thereof, and such statement shall contain, in addition to such other particulars as the Minister of Finance may require—

- 1st. The amount of stock subscribed ;
- 2nd. The amount paid in upon such stock ;
- 3rd. The amount borrowed for the purposes of investments and the securities given therefor ;
- 4th. The amount invested and secured by hypothecs ;
- 5th. The value of immovable property under hypothec ;
- 6th. The amount of hypothecs overdue and in default ;
- 7th. The amount of hypothecs payable by instalments ;
- 8th. The amount held as deposits :

Statement to be attested on oath, and may be published.

And such statement shall be attested by the oath, before some justice of the peace, of two persons, one being the president, vice-president, manager or secretary, and the other the manager or auditor of such society, each of whom shall swear distinctly that he has such quality or office as aforesaid, that he has had the means of verifying, and has verified the statement aforesaid, and found it to be exact and true in every particular ; that the property under mortgage has been set down at its true value, to the best of his knowledge and belief, and that the amount of the shares, deposits and debentures issued and outstanding, as he verily believes, is correct ; and such statement shall be published by the Minister of Finance, in such manner as he shall think most conducive to the public good ; and for any neglect to transmit such statement in due course of post within five days after the day to which it is to be made up, such society shall incur a penalty of one hundred dollars *per diem* ; and if the same be not transmitted within one month after the said day, or if it shall appear by the statement that such society is insolvent, the Minister of Finance may, by a notice in the *Canada Gazette*, declare the business of such society to have ceased ; and if the Minister of Finance shall, in any case, suspect any such statement to be wilfully false, he may depute some competent person to examine the books and enquire into the affairs of such society, and to report to him on oath ; and if by such report it shall appear that such statement was wilfully false, or that such society is insolvent, or if the person so deputed shall report on oath that he has been refused such access to the books, or such information as would enable him to make a sufficient report, the Minister of Finance may, by notice in the *Canada Gazette*, declare the business of such society to have ceased ; but in any of the cases in which discretionary power is given to the Minister of Finance to declare the business of such society to have ceased, he may before so doing give notice to such society, and afford the same an opportunity of making any explanation it may be advisable to make ; and all expense attending such periodical statements, and the publication thereof, shall be borne by such society.

Penalty for non-transmission.

Proceedings by Minister of Finance in case of insolvency or suspected insolvency of a society.

23. Sub-section one of the first section of chapter sixty-nine of the Consolidated Statutes for Lower Canada, intitled, "*An Act respecting Building Societies*," is hereby repealed, together with all other provisions of the said Act which are incompatible with this Act. Sub-section of s. 1, C. S., L. C., c. 69 repealed.

24. This Act shall apply as well to societies now existing as to societies hereafter incorporated in the manner hereinbefore provided; but it shall not be so construed as to prevent existing societies, not having the capital required by this Act, to continue their business and operations: Provided however, that any such society that has not already borrowed money, either on deposit or debentures, or both, or otherwise, shall not be allowed to do so until its permanent capital is raised to the amount required by this Act, and in accordance with the provisions thereof, and that any such society that has borrowed money already shall not, from and after the passing of this Act, issue any more debentures, and shall not, from and after the first day of July, one thousand eight hundred and seventy-eight, if it is a society existing in a city or in an incorporated town, and from and after the first day of July, one thousand eight hundred and seventy-nine, if it is a society existing elsewhere than in a city or incorporated town, borrow or receive money on deposit or otherwise, unless its permanent capital be raised to the amount required by this Act, and according to the provisions thereof. How this Act shall be interpreted. As to existing societies. Proviso, as to borrowing powers. And after 1st July, 1878.

SCHEDULE A.

Public notice is hereby given, that under the Act of the Parliament of Canada, Victoria, chapter , (1877.) respecting Building Societies, letters patent have been issued under the Great Seal of the Dominion of Canada, bearing date the day of , incorporating (*here state names, address and calling of each corporator named in the letters patent*) as a Building Society, by the name of (*here state the name of the society, as in the letters patent*) with a total capital stock of dollars, (*state here whether the stock is permanent or temporary, or how much thereof is permanent and how much temporary, as the case may be*), divided into shares of dollars each.

Dated at the office of the Secretary of State of Canada, this day of

A. B.,
Secretary.

SCHEDULE B.

Debenture No. Transferable. \$ Society.
 Under the authority of an Act of the Parliament of
 Canada, Victoria, chapter
 The president and directors of the
 Society promise to pay to or bearer
 the sum of dollars, on the day of
 in the year of Our Lord one thousand eight hundred and
 , at the treasurer's office here, with interest at the
 rate of per cent. per annum, to be paid half-yearly on
 presentation of the proper coupon for the same as hereunto
 annexed, say on the day of , and the
 day of in each year at the office of the treasurer here
 (or their agents in).
 Dated at , the day of , 18
 For the president and directors of the Society.

C. D.

Secretary.

A. B.

COUPON.

No. 1. \$
 Half-yearly dividend due of 18 , on
 Debenture No. issued by this society on the
 day of 18 , for \$, at per cent. per annum,
 payable at the office of the treasurer, at (or at the
 society's agents).
 For the president and directors.

C. D ,

Secretary.

A. B.

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 Excellent Majesty.



40 VIC., CHAP. 51.

An Act further to amend the Acts to provide for the management and improvement of the Harbour of Quebec, and "*The Pilotage Act, 1873.*"

[Assented to 28th April, 1877.]

WHEREAS it is expedient to make further and better provision for the management and improvement of the Harbor of Quebec, and to amend certain parts of the Acts now in force respecting the same: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The third section of the Act of the Legislature of the late Province of Canada, passed in the twenty-fifth year of Her Majesty's reign, and intituled, "*An Act to amend the Act to provide for the improvement and management of the Harbor of Quebec,*" is hereby amended by striking out the following words: "parts beyond the seas," and substituting therefor the words "parts outside of the Dominion of Canada."

Preamble.
Section 3 of the Act of the Province of Canada 25 V., c. 46 amended.

2. So much of the eighteenth section of the Act passed in the thirty-sixth year of Her Majesty's reign, intituled, "*An Act further to amend the Acts to provide for the management and improvement of the Harbor of Quebec,*" as is in the following words,—

Part of sect. 18 of 36 V., c. 62 repealed.

"On tow-boats and steamers of twelve tons and under plying in the Harbor and Port of Quebec, for the season, ten dollars each ;

"On tow-boats and steamers over twelve tons, plying in or to the Harbor of Quebec, for the season, fifteen dollars each ;" is hereby repealed, and the following substituted therefor,—

New provision made.

"On all tow-boats and steamers of twenty-five tons register or under, plying in or to the Harbor of Quebec, for the season, fifteen dollars each ; and on all such tow-boats and steamers over twenty-five tons register an additional ten cents over and above the said fifteen dollars, for each additional ton register over the said twenty-five tons." And so much of the said section of the said Act as is in the following words,— "On all goods, wares and merchandize of any kind whatsoever, including timber, lumber and wood goods

Part of the section imposing dues

repealed and others substituted. of every kind, imported into or exported from the Port of Quebec by sea, to or from any place out of the Province of Quebec, at a rate of one-tenth of one per cent. on the invoice value thereof;" is hereby repealed and the following substituted therefor,—

New rates on goods. "On all goods, wares and merchandize, including timber, lumber and wood goods of every kind imported into or exported from the Port of Quebec by sea, to or from any place out of the Province of Quebec, and on all such goods, wares, and merchandize, imported into or exported from the said Port of Quebec, to or from the United States, or by transit from any other country through the United States, whether by sea or otherwise at a rate of one-tenth of one per cent. on the invoice value thereof."

Section 19 repealed. 3. The nineteenth section of the last mentioned Act is hereby repealed.

Duty of master of a vessel arriving at Quebec. 4. The master or person in charge of any vessel arriving in the Port of Quebec, and discharging cargo thereat, from any port within the Dominion of Canada, the Province of Newfoundland or the United States, shall be bound, within forty-eight hours after the arrival of such vessel in the harbor of Quebec, to furnish the secretary of the said corporation with a true statement of the cargo of his said vessel; and he shall, within the said forty-eight hours, pay the rates or tolls due on such vessel to the Quebec Harbor Commissioners, through their secretary-treasurer; and in default of such master or person in charge of any such vessel so doing, he shall be liable to a penalty not exceeding fifty dollars, or to imprisonment not exceeding one month.

Statement of cargo.

Paying duties. Penalty for default.

Power to impose penalties or imprisonment. 5. The Quebec Harbor Commissioners shall have power, by any by-law to be hereafter made by them, and approved by the Governor in Council, to impose penalties not exceeding one hundred dollars currency, or sixty days' imprisonment, upon persons infringing or contravening the provisions of any by-law passed or to be passed by the said Quebec Harbor Commissioners; such fine or imprisonment to be sued for and recovered or enforced before a Judge of the sessions of the peace or two justices of the peace.

* * * *

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40 VIC., CHAP. 52.

An Act to authorize the Town of Kincardine, in the County of Bruce, to impose and collect certain Tolls at the Harbor in the said Town.

[Assented to 28th April, 1877.]

WHEREAS the Corporation of the town of Kincardine Preamble.
have, in addition to the sum of twenty-four thousand dollars granted to the said Corporation by the Governor in Council, expended the sum of forty thousand dollars and upwards, being receipts from all sources, in improving the harbor at the said town of Kincardine and the navigation of the River Penetangore within the limits of the said town, and have also, in order to raise a portion of the said sum of forty thousand dollars, under the authority of by-laws numbers seventy-one and seventy-nine, issued debentures to the amount of thirteen thousand dollars on the credit of the said Corporation, which debentures are payable in twenty years and three years respectively, with interest at the rate of six per cent. per annum; and whereas the improvements made at the said harbor and in the said river are of great benefit and advantage to all persons conveying goods, wares, merchandise and chattels to and from the said town of Kincardine, and have afforded material facilities to the navigation of the said river and entrance to and from the said harbor, and will, if maintained, continue to afford such advantages and facilities; and whereas the depth of water in the said harbor is liable to become lessened owing to the shifting sands; and whereas considerable expense will necessarily be incurred by the said Corporation in keeping open the navigation of the said harbor and river; and whereas also it is expedient further to improve the said harbor and enlarge the basin; and whereas the Corporation of the town of Kincardine have, by their petition, prayed to be authorized to impose and collect tolls by by-law on goods, wares, merchandise and chattels shipped on board of or landed from any vessel, boat or other craft in or at the said harbor at the town of Kincardine or the basin or river connected therewith, and on logs, timber, spars and masts going into or upon or through the said harbor, and to employ the proceeds of such tolls, after deduction and payment of the expenses of the collection thereof, as is hereinafter directed: Therefore Her Majesty, by and with the

advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Corporation
may levy
harbor tolls.
Application
thereof.

1. The Corporation of the town of Kincardine is authorized and empowered to pass by-laws for the imposition and collection of tolls, to be employed, after payment of the expenses of collection, for the purpose of assisting in liquidating the debt incurred by the said Corporation in improving the said harbor and of further improving the said harbor and the piers in connection therewith, on all goods, wares, merchandise and chattels shipped or landed on board or out of any vessel, boat or craft from or upon any part of the said harbor, basin or piers, and upon all logs, timber, spars or masts going into or through or upon the same or any part thereof,—the said tolls not to exceed the rates set out in the schedule to this Act: Provided, that the by-law or by-laws imposing the said tolls shall be approved by the Governor in Council before having any force or effect; and provided further, that the power to collect such tolls shall cease in ten years after the passing of this Act.

Not to exceed
rates in
schedule.
Proviso.

Proviso.

Sale of goods,
wares and
merchandise
for non-pay-
ment of tolls.

2. If any person or persons shall neglect or refuse to pay the tolls or dues to be collected under this Act and under any by-law that may be passed under the authority thereof, it shall and may be lawful for the said Corporation or their officer, clerk or servant duly appointed, to seize and detain the goods, wares, merchandise and chattels, logs, timber, spars and masts on which the same are due and payable, until such tolls are paid; and if the same shall be unpaid for the space fifteen days after such seizure the said Corporation, or their officer, clerk or servant as aforesaid may, by public auction, sell and dispose of the said goods, wares, merchandise and chattels, logs, timber, spars or masts or such part thereof as may be necessary to pay the said tolls and the reasonable costs and charges of keeping and selling the same,—giving six days notice thereof, and returning the overplus if any to the owner or owners thereof; perishable goods may be sold in like manner by public auction after a delay of twenty-four hours in default of payment of dues and charges.

Perishable
goods.

Vessels, &c.,
liable for
tolls.

3. Every vessel, boat or other craft on board of which goods, wares, merchandise, chattels and other things may be shipped shall be liable for the dues chargeable against such goods, wares, merchandise, chattels and other things, and in the event of non-payment thereof may be detained until payment thereof is made.

Return to
Parliament.

4. An annual return shall be made to Parliament of the amounts collected under the said by-laws and of the manner in which the same have been expended.

5. The said harbor of the town of Kincardine and the works thereof shall be subject to the provisions of any Act or Acts of the Parliament of Canada which may be passed hereafter for the construction, improvement, regulation or maintenance of the said harbor.

To be subject
to future
legislation.

SCHEDULE.

		\$	cts.
Wheat	per bushel		$\frac{1}{2}$
Rye	"		$\frac{1}{4}$
Barley	"		$\frac{1}{4}$
Flax seed	"		$\frac{1}{2}$
Beans	"	1	
Pease	"	$\frac{1}{4}$	
Oats	"	$\frac{1}{4}$	
Timothy seed	"	2	
Clover seed	"	3	
Corn	"	$\frac{1}{4}$	
Potatoes and other roots, per bushel.....		$\frac{1}{4}$	
Onions, per bushel.....		1	
Onions, per barrel.....		3	
Apples, per bushel.....		$\frac{1}{2}$	
Apples, per barrel.....		2	
Plums and Peaches, per bushel.....		1	
Cranberries, per barrel.....		10	
Flour	"	$2\frac{1}{2}$	
Oatmeal	"	2	
Cornmeal	"	1	
Pork	"	5	
Bacon and Hams, per 100 lbs.....		$1\frac{1}{2}$	
Bacon and Hams, per ton.....		30	
Beef, per barrel.....		4	
Fish—Trout and White Fish, per barrel.....		2	
Herring (Lake Huron)	"	$1\frac{1}{2}$	
" (Salt Water)	"	2	
Salmon	"	3	
Cod Fish	" per 100 lbs	2	
In boxes	"	3	
Water Lime and Plaster of Paris, per barrel.....		2	
Land Plaster, per barrel.....		1	
Potash	"	5	
Pearlash	"	5	
Salt imported in barrels or bags, per barrel or bag...		2	
Salt exported	"	$\frac{1}{4}$	
" per ton.....		5	
Molasses, per barrel.....		10	
Whiskey	"	20	
Beer, Ale or Porter, per barrel.....		$12\frac{1}{2}$	
" per half barrel.....		7	
" per quarter barrel.....		5	

	\$	cts.
Beer, Ale or Porter, bottled, per barrel.....	20	
Brandy, per barrel.....	40	
“ per keg or half barrel.....	20	
“ bottled, in case, per dozen.....	10	
Gin or Rum, per barrel.....	40	
“ per keg or half barrel.....	20	
“ per dozen in case.....	10	
Wines, per barrel.....	30	
Highwines or Alcohol, per barrel.....	60	
Vinegar “.....	5	
Paint Oil, boiled or raw “.....	20	
Coal Oil “.....	5	
All other Oils “.....	25	
Varnish, per gallon.....	1	
Turpentine, per barrel.....	25	
Sugar, per 100 lbs.....	1	
“ per barrel.....	1	
Horses, per head.....	20	
Cattle “.....	10	
Swine, Sheep or Calves, per head.....	2	
Square or Round Timber, per 100 ft. running measure.....	5	
Sawed Lumber, per 1,000 feet.....	10	
Shingles, per square.....	1	
Laths, per 1,000 feet.....	2	
Coal of all kinds, per ton.....	10	
Pig or Scrap Iron “.....	12½	
Bar or Wrought Iron and Steel, per ton.....	20	
Nails or Spikes, per ton.....	20	
General Hardware, per ton.....	30	
Chain Cable Castings “.....	25	
Grindstones “.....	12	
Paints “.....	40	
Nursery Produce “.....	30	
Merchandise “.....	50	
Earthenware, per crate or hhd.....	10	
Threshing Machines, each.....	1 00	
Reaping and Mowing Machines, each.....	50	
Horse Rakes, each.....	20	
Harness, per set.....	10	
Rollers “.....	10	
Straw Cutters, each.....	10	
Root Shears “.....	10	
Ploughs “.....	10	
Double Waggon “.....	25	
Single Waggon or Buggies, each.....	25	
Fanning Mills, each.....	12	
Lard or Butter, per keg or firkin.....	2	
Eggs, per barrel or box.....	4	
Bricks, per 1,000.....	10	
Bath Bricks, per box.....	1	
Furniture, per ton.....	50	

	\$	cts.
Hops, per 100 lbs.....	10	
Cheese ".....	3	
Wool ".....	5	
Hides or Skins, green, per 100 lbs.....	3	
dry ".....	5	
Hay, per ton.....	10	
Leather, per ton.....	50	
Stave Bolts, per cord.....	5	
Staves, per 1000.....	6	
Shingle Bolts, per cord.....	5	
Bark ".....	5	
Wood ".....	2½	
Cedar Posts, per 100.....	5	
Cedar Ties ".....	10	
Field, Lake, or small Quarry Stone, per cord.....	15	
Quarried Sand Stone, per ton.....	15	
Marble, per ton.....	25	
All other articles not above mentioned, per ton.....	40	
For Rafts, tonnage dues for 1000 feet lineal measure	50	
Crafts and Vessels of any description:		
For Vessels under 50 tons.....	50	
" 50 tons to 150 tons.....	1	00
" 150 tons and upwards	1	50
Steamers and Propellers making regular calls to be charged at the rate of \$3 00 per month by the season	3	00

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40 VIC., CHAP. 53.

An Act respecting Tolls in the Harbor of Montreal.

[Assented to 28th April, 1877.]

Preamble.

IN amendment of the Acts hereinafter mentioned, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :--

Sect. 28 of
36 V., c. 61
and tariff of
tolls, repealed
from 1st
April, 1877.

1. Upon, from and after the first day of May, in the present year, one thousand eight hundred and seventy-seven, section twenty-eight of the Act passed in the thirty-sixth year of Her Majesty's reign, and intituled, "*An Act respecting the Trinity House and Harbor Commissioners of Montreal*," and the tariff of tolls, rates, duties and dues to be levied in the harbor of Montreal, under and by virtue of the said Act, and the Schedules A, B, C, D, E, F and G, fixing the said tolls, rates, duties and dues in each case, shall be repealed; except the proviso respecting vehicles, forming part of the said section twenty-eight, which shall remain in force and apply to the tariff under this Act.

Exception.

New tariff
of tolls on
and after 1st
May, 1877.

2. Upon, from and after the said first day of May, one thousand eight hundred and seventy-seven, it shall be lawful for the Corporation of the Harbor Commissioners of Montreal, to levy upon all vessels entering or departing from the harbor of Montreal, or being at anchor or otherwise moored therein, and upon all goods landed or shipped or deposited therein (except arms, ammunition and military accoutrements, and other munitions of war for the use of the Government or for the defence of the Dominion, and except also vessels laden therewith), the several rates and dues mentioned in the schedules appended to this Act; the whole subject to all and every of the provisions of the Act of the Legislature of the late Province of Canada, passed in the eighteenth year of Her Majesty's reign, chapter one hundred and forty-three, and intituled, "*An Act to provide for the Management and Improvement of the Harbor of Montreal, and the deepening of the Ship Channel between the said Harbor and the Port of Quebec, and to repeal the Act now in force for the said purposes*," or of the Act hereby amended, or any Act amending the same or either of them, in the same manner and to the same extent as if the schedules hereunto appended had originally formed part of and been appended to the Act first cited in this section.

Subject to
Act of Pro-
vince of
Canada 18
V., c 143.

TARIFF.

RATES and Dues to be levied in the Harbor of Montreal, under and by virtue of the foregoing provisions of this Act on and after the first day of May, 1877.

DUES TO BE LEVIED ON ALL VESSELS IN THE HARBOR.

On steamboats measuring fifty tons and upwards, per ton register, for each day of twenty-four hours they remain in the harbor, reckoned from the hour of their arrival to that of their departure.....	1½c.
On all other vessels measuring fifty tons and upwards, per ton register and per day, as aforesaid.....	¾c.
On steamboats measuring under fifty tons register for each day reckoned as aforesaid, each.....	40c.
On all other vessels, measuring from twenty-five to fifty tons register, per day, reckoned as aforesaid, each.....	25c.
On all vessels of less than twenty-five tons register, each, per day, as aforesaid.....	10c.

RATES TO BE LEVIED ON ALL MERCHANDISE, ANIMALS AND THINGS
WHATSOEVER LANDED OR SHIPPED IN THE HARBOR.

Articles.	Per	Rate.	Ton Weight.	Ton Measurement.
A		Cts.	Cts.	Cts.
Ashes, Pot or Pearl	barrel	7		
Axes	dozen	2		
Animals, undescribed.....	each	2		
Apples	barrel	2		
Alum			25	
Anchors.....			25	
Anvils			25	
Arrowroot			30	
Ale, Beer and Porter, in bottles.....				25
B				
Beef	barrel	2		
Bark	cord	5		
Baskets.....	dozen	2		
Brooms, Corn	do	2		
Buckets	do	2		
Bateaux.....	each	10		
Boats, undescribed.....	do	4		
Burrstones.....	do	2		
Bottles, empty.....				15
Ballast			10	
Bones			25	
Bran			25	
Barrels, empty.....	100	20		
Billets	100	15		
Boxes, empty	100	20		

RATES to be levied on all Merchandise, &c.—*Continued.*

Articles.	Per	Rate.	Ton Weight.	Ton Measure-ment.
		Cts.	Cts.	Cts.
Bricks.....	1,000	10	30	15
Barley, Pot or Pearl.....			30	
Batting.....			30	
Biscuit.....			30	
Blue.....			30	
Bread.....			30	
Brimstone.....			30	
Butter.....			30	
Bleaching Powder.....			30	
C				
Cinders.....			10	
Coal.....			10	
Coke.....			10	
Canoes.....	each	2		
Carriages on wheels.....	do	10		
Carts.....	do	2		
Casks, empty, undescribed.....	do	1		
Cattle, Neat.....	head	4		
Cement.....			25	
Chains.....			25	
Chalk.....			25	
Chinaware, in packages.....			25	20
Copperas.....			10	
Clay, in natural state.....				15
Corks.....				15
Crockery, in crates.....				
Corn, Indian.....	100 bushels	25		
Candles.....			30	
Cheese.....			30	
Chocolate.....			30	
Cocoa.....			30	
Coffee.....			30	
Cordage.....			30	
Cork, unmanufactured.....			30	20
Cotton.....			30	30
Crackers.....			30	25
Cider.....			30	
Currants.....			30	
Cotton Waste.....			30	15
D				
Dusters, Corn.....	dozen	1		
Drugs, not otherwise enumerated.....			40	30
Dry Goods do do.....			50	50
E				
Earthenware, in crates.....			25	15
do loose.....				15
Eggs.....	1,000	4		
Earth.....			30	

RATES to be levied on all Merchandise, &c.—*Continued.*

Articles.	Per	Rate.	Ton Weight.	Ton Measure-ment.
F		Cts.	Cts.	Cts.
Fish	barrel	2		
Flour	do	2		
Fish, Shell	do	3		
Fruit, Green	bushel	1		
Fluids, unenumerated			40	30
Feathers			50	
Flax			30	
Fruits, dried			26	
Fish, dry or green			25	
do in oil			40	30
Furniture			40	30
G				
Game	dozen	2		
Gear, Raft			25	
Gypsum			25	
Grindstones			25	
Glass, Window	100 feet.	2		
Glassware, in packages				20
Grain (oats excepted)	100 bushels	25		
Ginger			30	
Glue			30	
Grease			30	
Gunpowder			30	
Gold or Bullion	free			
Groceries, not otherwise enumerated			40	20
H				
Hides	dozen	5		
Horses	each	4		
Horns			25	
Hoofs			25	
Hay			20	
Handspikes	100 pieces	15		
Hemp			30	
Honey			30	
Hops			30	
Hardware, Manufactured			40	30
Hollow Ware				20
I				
Iron			25	
Junk			30	
Iron Pipes			30	
L				
Lemons				26
Lime			10	
Luggage			25	
Liquors			40	36
Laths	1,000	4		
Lumber (board measure)	1,000 feet	10		
Lampblack			30	

RATES to be levied on all Merchandise, &c.—Continued.

Articles.	Per	Rate.	Ton Weight.	Ton Measurement.
		Cts.	Cts.	Cts.
Lard.....			30	
Leather.....			40	30
Lead, (ground) White or Red.....			30	
Liquorice, Paste.....			30	
M				
Meal.....	barrel	2		
Meats.....	do	2		
Metals of all kinds, in pig, bar, bolts, rods or sheets.....			30 (when in lots of five tons and over, 25 cts.)	
Millstones.....			25	
Moulds, Plough.....			25	
Matches.....	12 gross	2		
Malt.....	100 bushels	25		
Marble, unmanufactured.....	100 cubic ft.	20		
do manufactured, Granite, &c.....			30	
Meats, dry, salted.....			20	15
do Preserved.....			25	
Molasses.....			30	
Machinery.....			30	30
N				
Nails.....			25	
Nuts of all kinds.....			30	
O				
Oars.....	100	15		20
Oranges.....				
Onions.....	bushel	1		
Oysters.....	do	1		
Ores of all kinds.....			25	
Oil.....			30	
Oakum.....			30	
Ochres.....			30	
Oilcake.....			30	
Oats.....	100 bushels	15		
P				
Pitch.....	barrel	2		
Pork.....	do	2		
Plates, Canada.....	box	2		
Plates, Tin.....	do	2		
Pails.....	dozen	2		
Poultry.....	do	2		
Puncheon Packs.....	each	2		
Pipes, empty.....	do	2		
Puncheons, empty.....	do	2		
Pipes, Clay.....				20
Potatoes.....	bushel	1		
Plaster of Paris.....			25	
Poles, Hop.....	100	5		
Pulse.....	100 bushels	25		

RATES to be levied on all Merchandise, &c.—Continued.

Articles.	Per	Rate.	Ton Weight.	Ton Measurement.
		Cts.	Cts.	Cts.
Paint.....			30	25
Paper (Wrapping).....			30	25
Putty.....			30	25
Phosphate of Lime, unmanufactured.....			10	
Plaster of Paris do.....			10	
Petroleum (four barrels to the ton).....			20	
Pickles and Sauces.....			30	25
R				
Rosin.....	barrel	2		
Rags.....			30	25
Rice.....			30	25
Rope.....			30	25
S				
Shovels.....	dozen.	2		
Skins, Buffalo.....	do	10		
Skins, untanned and uncured.....			40	30
Spades.....	dozen.	2		
Shooks, punch on.....	each.	2		
Staves, barrel.....	mille.	15		
Staves, puncheon.....	do	20		
Staves, standard.....	do	60		
Sand.....			10	
Shorts.....			25	
Shot.....			25	
Soda Ash, Caustic Soda, Sal Soda, Silicate Soda.....			25	
Spikes.....			25	
Stoves.....			25	
Straw.....			20	
Stone (except ballast).....	100 cubic ft.	20		
Salt.....	100 bushels.	25		
Seed.....	do	25		
Sleepers, Railroad.....	100	25		
Shingles.....	1,000	4		
Slates for roofing.....	1,000	10		
Sago.....			30	
Salicratus.....			30	
Sulphur.....			30	
Saltpetre.....			30	
Snuff.....			30	
Soap.....			30	
Spices.....			30	
Starch.....			30	
Stoneware, in crates.....				15
Sugar.....			30	
Sewing machines.....			30	30
Steel.....			40	30
T				
Tar.....	barrel.	2		
Tiles for roofing.....	1,000	10		
Timber.....	100 cubic ft.	10		
Tallow.....			30	
Teas.....			40	
Tobacco.....			30	
Tow.....			30	

RATES to be levied on all Merchandise, &c.—*Concluded.*

Articles.	Per	Rate.	Ton Weight.	Ton Measure-ment.
V		Cts.	Cts.	Cts.
Vehicles, undescribed	each.	4		
Vegetables, green	bushel.	1		
do preserved			25	
Vinegar			40	30
W				
Wood, fire	cord.	5		
Wood, lath	do	10		
Whiting			25	
Wine			40	30
Wadding				15
Wax			30	
Wire			30	
Wool				25
Whetstones			30	
Whisks, corn	dozen.	1		
Wood, manufactured				20
Waters, aerated and mineral				20

On all goods, wares and merchandise whatsoever, the quantity of which by weight, measurement or other mode of estimate provided for in the tariff, cannot be conveniently ascertained, it shall be lawful for the Harbor Commissioners to levy a rate of one quarter of one per cent. on the value thereof.

Goods not coming under any class enumerated in the tariff, shall be charged the same rate as the class to which they are most nearly assimilated.

Each entry shall pay not less than five cents.

All property landed on the wharves for re-shipment shall only pay one wharfage.

The ton weight mentioned in the tariff shall be two thousand pounds.

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41 VIC., CHAP. 16.

An Act respecting the Traffic in Intoxicating Liquors.

[Assented to 10th May, 1878.]

WHEREAS it is very desirable to promote temperance in the Dominion, and that there should be uniform legislation in all the Provinces respecting the traffic in intoxicating liquors : Preamble.

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

* * * * *

124. Section thirty-four of the said Temperance Act* is hereby repealed and the following substituted therefor :— Sect. 34 of 27-28 Vict., c. 18, repealed; new section.

“**34.** In Ontario, all the said penalties, or any portion of them which may be recovered, shall be paid to the convicting justice, justices or magistrate in the case, and shall by him or them, in case the inspector of licenses or any officer appointed under the authority of the Lieutenant Governor is the prosecutor or complainant, be paid to the inspector, and by him applied as the Lieutenant Governor may direct, and in case such inspector or officer is not the prosecutor or complainant, then the same shall be paid to the treasurer of the municipality wherein the offence was committed : Application of penalty in Ontario.”

“**2.** The council of every municipality shall set apart not less than one-third part of such fines or penalties received by the said municipality for a fund to secure the prosecution for infractions of this Act.” Formation of fund to enforce this Act.

* “ The Temperance Act of 1864.”



41 VIC., CHAP. 22.

An Act to amend the law respecting Building Societies carrying on business in the Province of Ontario,

[Assented to 10th May, 1878.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

How permanent societies in Ontario may make shares thereafter subscribed for permanent capital and not withdrawable.

1. The members of any permanent building society carrying on business in the Province of Ontario, entitled to vote, may, at any time, by a resolution, to be passed by a majority of two-thirds of the votes of such members present or represented by proxy at any special or general meeting, (for which meeting notice of such intended resolution shall be duly given), determine that all shares thereafter subscribed for in such society shall be fixed and permanent capital and not liable to be withdrawn therefrom; and any share thereafter subscribed for in such society shall be fixed and permanent capital and not withdrawable therefrom, but transferable in the same manner as other shares in such society.

Directors may fix amount payable on subscription or as premiums on such shares.

2. The directors of any such society may fix the amount to be paid on the subscription of any such shares, which amount shall not be less than twenty per cent. on the shares subscribed, and the premium, if any, which shall be paid thereon, and when such premium shall be payable; and it shall be in the discretion of the directors, from time to time, to call up the balance of any such shares, at such time or times as they think best. And any such society may, from time to time, pay dividends by way of annual or other periodical profits, upon the amounts paid on such shares. In all other respects such shares shall be subject to the general provisions respecting shares in permanent building societies carrying on business in the Province of Ontario.

And pay dividends by way of periodical profits. Proviso.

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42 VIC., CHAP. 10.

An Act to amend an Act intituled "*An Act respecting the Intercolonial Railway*," passed in the thirty-ninth year of the Reign of Her Majesty, Queen Victoria,

[Assented to 15th May, 1879.]

WHEREAS by an Act passed by the Legislature of Nova Scotia, being chapter eighty-three, of the year one thousand eight hundred and sixty-three, which said Act was amended by an Act of the same Legislature, that is to say, by chapter ninety-eight, of the year one thousand eight hundred and sixty-six, certain rights were conferred on the Halifax City Railroad Company; and whereas it was not intended by the Act of the Parliament of Canada cited in the title to this Act, that the said provisions of the said two Statutes of the Province of Nova Scotia should be affected thereby: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

1. The following proviso shall be added to, and read after the last word of the second section of the said Act of the Parliament of Canada, and shall form part thereof as from the date of its enactment, that is to say: "Provided always, that nothing in this Act or in the Act intituled "*An Act respecting the Public Works of Canada*," shall injuriously affect or prejudice in any way the rights, franchises and properties of the Halifax City Railroad Company, as granted to them and acquired by them, under certain Acts of the Legislature of Nova Scotia."

Preamble.

Acts of N. S.,
c. 83, of
1863, and c.
96, of 1866,
cited.

Proviso
added to s. 2
of 39 V., c. 16.

Nothing in
39 V., c. 16,
or 31 V., c. 12,
to affect inju-
riously the
rights of the
Halifax Street
Railway Co.,
under Provin-
cial Acts.

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42 VIC., CHAP. 11.

An Act for the acquisition by the Dominion of a certain portion of the Grand Trunk Railway, to be made part of the Intercolonial Railway.

[Assented to 15th May, 1879.]

Preamble.

WHEREAS it is expedient to provide for the acquisition by the Dominion of that portion of the Grand Trunk Railway hereinafter mentioned, to the end that it may be made part of the Intercolonial Railway: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Power to purchase part of G. T. Railway from Rivière du Loup to Hadlow.

1. The Government of Canada may enter into arrangements with the Grand Trunk Railway Company of Canada for the purchase by the Dominion of that part of the Grand Trunk Railway between Rivière du Loup and Hadlow, with such metes and bounds, and such appurtenances (except certain of the rails then in use thereon) as may be deemed expedient, and for running powers between the Chaudière Junction and Point Lévis, and other obligations and services by either party to the other,—on equitable terms to be agreed upon by the parties; and Her Majesty may acquire the said property and rights, and the Company may sell and convey the same to Her Majesty for the Dominion of Canada, according to such agreement. But this Act shall not take effect unless and until submitted to a special general meeting of the Company, and accepted by a majority consisting of two-thirds of the votes of the persons present or represented by proxy entitled to vote; and the certificate in writing, of the chairman of such meeting shall be taken as *primâ facie* proof of its acceptance by the meeting, such certificate to be filed in the office of the Secretary of State of the Dominion of Canada; and copies certified by the said Secretary of State shall be taken and considered in all courts of law and equity as sufficient *primâ facie* evidence of the contents thereof.

Proviso, for assent of the company at a special general meeting.

Provision as to payment of purchase-money.

2. Payment of the purchase-money, which shall not exceed one million five hundred thousand dollars, shall only be made to cover expenditure for such purposes in connection with the Grand Trunk Railway as the Government shall consider conducive to the public advantage.

3. Interest at six per cent. per annum shall be allowed on any purchase-money remaining unpaid for thirty days after payment of the same has become due under the agreement.

Interest
allowed on
part unpaid.

4. Interest at six per cent. per annum shall be allowed upon the value of such of the rails not purchased as part of the line, as may not be taken up and delivered by the Government to the Company according to agreement, so long as the same remain upon the line after the period agreed upon; the value of such rails to be computed at their then marketable value.

And on value
of rails not
purchased
but used.

5. The part of the said railway so purchased for the Dominion shall become part of the Intercolonial Railway, and be subject to all enactments and provisions of law applying thereto.

Intercolonial
Railway Acts
to apply.

6. A sum not exceeding three hundred and seventy-five thousand dollars may be expended to defray the expenses of repairing the line of railway so purchased, and relaying it with steel rails; and a further sum not exceeding two hundred and fifty-five thousand dollars to defray the expense of operating it during the year ending the thirtieth June, 1880; and such sums shall be paid out of the moneys appropriated for that purpose by Parliament during the present Session, and shall be accounted for as moneys expended under the Acts respecting the construction and operating of the Intercolonial Railway, respectively.

Provision for
repairing the
part pur-
chased, and
working
expenses to
30th June,
1880.

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42 VIC., CHAP. 12.

An Act to amend "*The Truro and Pictou Railway Transfer Act, 1877.*"

[Assented to 15th May, 1879.]

Preamble.

40 V., c. 46.

WHEREAS all parties interested in the transfer of the Pictou and Truro Branch Railway, provided for by "*The Truro and Pictou Railway Transfer Act, 1877,*" have agreed to certain changes in the terms and conditions of such transfer, and it is expedient, for that reason, to amend and extend the said Act: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

When the transfer shall be made.

1. The transfer of the said Pictou Branch, and of such of the appurtenances thereof as are mentioned in the first section of the said Act (hereinafter called the Pictou Branch), shall be made to the Halifax and Cape Breton Railway and Coal Company, so soon as the contract for the construction and equipment of the extension line of railway from New Glasgow to the Strait of Canso (hereinafter called the "Eastern Extension"), and for the establishment of a steam ferry at the Strait of Canso, now existing between the Government of the Province of Nova Scotia and the said company, or any modification thereof that may be agreed to by the said Government and the Company, shall have been completely performed to the satisfaction of the said Government.

Repeal of ss. 2 and 3, 40 V., c. 46.

2. The second and third sections of the said Act are hereby repealed.

Conditions of transfer.

3. Such transfer of the said Pictou Branch shall be made upon the following conditions:—

Operating the railway.

(a.) That the said Company, its representatives or assigns, shall efficiently and continuously operate the said Pictou Branch and the said Eastern Extension and the said ferry, to the satisfaction of the Lieutenant Governor of the said Province in Council, at a fair and reasonable tariff of charges which shall be made and established from time to time by the said Company, subject to the approval of the said Lieutenant Governor in Council, and which tariff shall only be altered or amended with the assent and approval of the Lieutenant Governor in Council;

Tariff subject to approval.

(b.) That in the event of the said existing contract, with any modification thereof as aforesaid, not being performed to the satisfaction of the Nova Scotia Government, or in the event of the failure of the said Company, its representatives or assigns, for a period of three months to operate the said railways and ferry efficiently and continuously, to wit, by running at least one passenger train over the whole line each way daily, except Sundays, and such freight trains as may be sufficient for the conveyance of the freight offered for carriage,—and by running the ferry in connection with the passenger trains,—then the said Pictou Branch shall, if it has not previously been transferred to the said Company, remain the property of the Government of Canada, free from any rights or interest of the said Company therein; but if it has been so transferred, then it shall immediately by virtue of this Act revert in and become the property of the Government of Canada, free from any incumbrances of any kind whatsoever created by the said Company, its representatives or assigns, all of which incumbrances, if any, shall thereupon cease to have effect, and shall become extinct, saving, however, the right of the holders thereof as against the Company itself; and so soon thereafter as the said Eastern Extension and ferry and appurtenances shall have become the property of the Nova Scotia Government free from incumbrances, pursuant to the agreement in that behalf between the said Government and Company, and if, or so soon thereafter as the Nova Scotia Government shall be authorized to carry out the conditions herein contained and on their part to be performed, the said Pictou Branch shall be transferred by the Government of Canada to the Nova Scotia Government, subject to the terms hereinafter set out;

Revestment in Government of Canada, on failure to perform conditions of transfer.

Transfer to Government of Nova Scotia on certain conditions.

(c.) The power of the said Company, its representatives or assigns, to create upon the said Pictou Branch any charges, incumbrances or liens, is hereby made subject to the terms of this Act; but subject thereto the said Company may create such charges, incumbrances or liens thereon and on the revenues and appurtenances thereof, by the issue of mortgage bonds, or otherwise, as they shall be authorized by the laws of the said Province to create on any other portion of their property, assets or revenues;

As to creation of charges on the branch.

(d.) The default of the Company within the intent and meaning of this Act, either in the completion, equipment and establishment of the said Eastern Extension Railway and ferry, or in the continuous operation thereof as hereinbefore provided, shall be established in such manner as shall be agreed upon by the Government of Nova Scotia and the company, or as shall be enacted by the Legislature of the said Province.

How the default of the company may be proved.

4. In case of any difference of opinion between the said Government and the Company as to any item of the tariff of charges to be made and established as aforesaid, or as to the

In case of difference between Gov't of N. S. and

Co. Minister of P. W. to decide.	non-performance of the said existing contract, or as to the failure of the Company to operate the said railways and ferry efficiently and continuously, as above provided for,—such difference shall be submitted for determination to the Minister of Public Works of Canada, and his decision shall be final and binding.
Terms of transfer to Government of N. S.	<p>5. In the event of the said Eastern Extension and ferry and appurtenances becoming the property of the Nova Scotia Government, as above mentioned, the said Pictou Branch shall be transferred to that Government, subject to the following conditions:—</p> <p>(a.) That if the said Eastern Extension and ferry and appurtenances become the property of such Government before the same are completed, equipped and established, the said Government shall complete, equip and establish the same with all reasonable despatch;</p> <p>(b.) That so soon as the same have been so completed, equipped and established, or if the same become the property of the Nova Scotia Government, after they have been completed, equipped and established,—the said Pictou Branch, Eastern Extension and ferry shall be thereupon efficiently and continuously operated by the Nova Scotia Government, to the satisfaction of the Governor General in Council, at a fair and reasonable tariff of charges, which shall be made and established by the Nova Scotia Government, subject to the approval of the Government of Canada, and which shall only be altered or amended with the assent and approval of the said last-named Government;</p> <p>(c.) That in the event of the failure of the Nova Scotia Government to complete, equip and establish the said Eastern Extension and ferry with all reasonable despatch, as above provided for, or in the event of their failure for a period of three months to operate the said railways or either of them or the said ferry, efficiently and continuously in the manner hereinbefore described, the said two lines of railway and the said ferry shall thereupon become vested in and become the property of the Government of Canada, free from any incumbrance, charge or lien of any kind whatever, created thereon either by the Government of Nova Scotia or by the Company, all of which incumbrances, charges and liens (if any) shall cease to have effect, and shall become extinct immediately upon the acquisition of the said railways and ferry by the Government of Canada, saving, however, the rights of the holders thereof as against the Company itself or the Nova Scotia Government, as the case may be.</p>
Equipment of railway and ferry.	
Operating railways and ferry.	
Tariff.	
Provision in case of default by N. S. Government.	
Transfer to Canada.	
Saving rights acquired.	
Computation of date of default.	<p>6. Any default in the continuous operation of the said railways and ferry, or of any of them, which may be charged against the Nova Scotia Government, shall commence and be computed from the date at which the Government of Canada shall give to the Provincial Secretary of the Nova</p>

Scotia Government a notice claiming that the said railways, or either of them, or the said ferry, are not, or is not, being efficiently or continuously operated as aforesaid ; and any dispute between the two Governments as to forfeiture having been incurred, shall be decided by arbitration, as hereinafter provided.

Arbitration
in case of
difference.

7. The Pictou Branch Railway and the appurtenances thereof shall be as described in the first section of the Act hereby amended, but it is hereby declared that the right of property in the said railway to be transferred to the said Company or to the Government of Nova Scotia, as the case may be, shall not extend, at the Truro end thereof, beyond the north-easterly boundary line of Prince street, in the town of Truro. But the Company, their representatives and assigns, shall have the right to run trains up to the freight and passenger stations at Truro for the interchange, reception and delivery of freight and passengers, with the use of the yard, turntable and station buildings appertaining to the said station, excepting the engine-house and coal-houses ; the whole subject to the rules and regulations of the Intercolonial Railway and the control of its officers, within the boundaries of its property.

Extent of
Pictou
branch rail-
way and
appurten-
ances defined.

Certain rights
given to the
company.

8. In case any difference arises between the Government of Canada and the Government of Nova Scotia or the Company, as to what property or rights are intended by or included in the description of the Pictou Branch and its appurtenances as contained in the first section of the Act hereby amended, or as to whether the limitation in the seventh section of this Act deprives the Company of any right to which it would be entitled under the heretofore existing legislation ; and if so, as to the compensation which should be reasonably due to them for such deprivation, having regard to the value of any rights by the said seventh section granted to them, to which they would not be entitled under the heretofore existing legislation ; or in case any difference arises between the two Governments as to forfeiture having been incurred under the provisions hereof, the matters so in dispute shall be referred to the award and determination of three arbitrators, one to be nominated by the Government of Canada, one by the Nova Scotia Government or the Company, as the case may be, and the third by the two so nominated : Provided always, that if either party should for one month after notice from the other that they have nominated an arbitrator, omit or refuse to nominate an arbitrator, or if the two nominated should omit within a like delay, or should refuse to nominate the third, then in every such case the Chief Justice of the Supreme Court of Canada, or in his absence the Senior Puisne Judge thereof may, on the application of either party, nominate the required arbitrator :

Arbitration
in case of
difference
between the
Dominion and
N. S. Govern-
ments.

Proviso : in
case of failure
to appoint an
arbitrator.

Vacancy of
office of
arbitrator.
Nomination
of successor.

In case of the death, resignation or refusal to act of any arbitrator, or if for any other cause the office of any arbitrator becomes vacant, his successor shall be nominated in the same manner as such arbitrator was nominated, unless the parties otherwise agree; and in case such successor be not, within one month after the happening of the event or vacancy, nominated by the party entitled to nominate him, then the Chief Justice or Puisne Judge as aforesaid may, on the application of either party, nominate such successor:

Time for
award
limited.

The arbitrators shall, within three months after the last appointment, proceed to determine the matters referred and as to the costs of the reference, and they or a majority of them shall make and publish their award within such three months: Provided always, that the Chief Justice or any of the Judges of the Supreme Court of Canada may, on the application of either party, either before or after the expiration of such three months or of any extended time, from time to time, extend the time for making such award; and the award of the said arbitrators or a majority of them shall be final.

Act not to
affect certain
claims of the
company.

9. And whereas the Company claim from the Government of Canada running powers over the Intercolonial Railway between Truro and Halifax, and also compensation for alleged deterioration of the Pictou Branch since the execution of the existing contract for the construction of the said Eastern Extension, and certain other privileges and rights in respect of the said branch and its property, the provisions hereof shall not affect the said alleged claims which shall neither be held to be admitted nor waived by submission to the provisions hereof.

Short title of
Act; and
presumed
embodiment
of its condi-
tions in any
conveyance
under it.

10. This Act may be cited as "*The Truro and Pictou Railway Transfer Amending Act*;" and in any conveyance of the said railway by the Government of Canada to the Company or to the Government of Nova Scotia, as the case may be, it shall not be necessary to set forth any of the conditions hereof; but the same shall be held to be incorporated in such conveyance, provided it be set forth in such conveyance that it is made under the provisions of this Act.

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42 VIC., CHAP. 13.

An Act to amend "*The Canadian Pacific Railway Act*,
1874."

[Assented to 15th May, 1879.]

HER Majesty, by and with the advice and consent of the Preamble.
Senate and House of Commons of Canada, enacts as
follows:—

1. Section sixteen of the Act of the Parliament of Canada, passed in the thirty-seventh year of Her Majesty's reign, chapter fourteen, intituled, "*An Act to provide for the construction of the Canadian Pacific Railway*," is hereby amended by adding at the end thereof the following words: "The Governor in Council may, at any time before or after the construction of the said branch railway, make with any company or companies or persons owning any portion of a line of railway in the State of Minnesota which may connect with the said branch railway, or with any other company or person, such arrangement for leasing the said branch railway on such terms and conditions as may be agreed upon, such lease not to extend beyond the time when the Canadian Pacific Railway from Thunder Bay to Selkirk is opened for traffic; and may also make such other arrangements as may be deemed advantageous for working the said branch railway in connection with any line in the State of Minnesota connecting with the same at the boundary line: Provided, that no such contract for leasing the said branch railway shall be binding until it shall have been laid before both Houses of Parliament for one month without being disapproved, unless sooner approved by a resolution of each House, and no such other arrangement shall be binding beyond the end of the then next Session of Parliament, unless it shall have been laid before both Houses of Parliament for one month without being disapproved, unless sooner approved by a resolution of each House."

Sect. 16 of 37
V., c. 14,
amended.

Governor in
Council may
lease or make
certain ar-
rangements
as to the
Pembina
Branch.

Proviso: for
approval of
Parliament.

2. Whereas by agreement to this Act annexed and marked Schedule A, dated the third day of August, in the year of our Lord one thousand eight hundred and seventy-eight, made between Her Majesty of the first part, and George Stephen, of the city of Montreal, Esquire, for and on behalf

Recital of
agreement of
3rd August,
1878.

Agreement confirmed. H. M. may make arrangements with any person for the equipment and working of the said branch railway.

of himself and the other bondholders of the St. Paul and Pacific Railway Company, of the second part, certain arrangements respecting the working of the said branch railway are made, and for the avoidance of doubts it is expedient to confirm the same, and to enable Her Majesty to enter into arrangements with some person or company for the equipment and working of the said branch railway under the said agreement: Therefore the said agreement is hereby confirmed; and Her Majesty may, at any time and from time to time during the continuance of the said agreement, make with any person or company such arrangements as may be thought proper for the equipment and working of the said branch railway by such person or company, under the said agreement, and for that purpose may grant to such person or company all authority and powers necessary to the efficient working of the said branch railway and to the carrying out of the arrangement which may be made.

SCHEDULE A.

Memorandum of agreement made the third day of August, A.D. 1878, between Her Majesty Queen Victoria, herein represented by the Minister of Public Works of Canada, of the first part, and George Stephen, of the city of Montreal, Esquire, for and on behalf of himself and the other bondholders of the St. Paul and Pacific Railway Company, of the second part.

Whereas the said railway company has its line in operation from St. Paul and other railway connections to Fisher's Landing, about seventy miles from the boundary line between the Dominion of Canada and the United States of America, and proposes within twelve months to complete its line of railway from the said Fisher's Landing to the boundary line at Emerson;

And whereas the Government of Canada are building a railway from Selkirk to Emerson, in the Province of Manitoba (herein referred to as the Government line), and intend to complete the same as soon as practicable;

And whereas it is desirable and necessary that the said Government line should have a connection with the railway system of the United States in order to ensure speedy connection with the Lake at Duluth and with the Canadian railway system at Sarnia and Windsor, pending the completion of the Canadian Pacific Railway from Selkirk to the Lake at Thunder Bay;

Now these presents witness that the parties hereto covenant and agree, each with the other, as follows:—

1. This agreement is to continue in force for ten years from the first day of January, A.D. 1879, unless the Government of Canada terminate the same at the end of five years

from that date by giving to the said George Stephen, or to the said railway company, at least six months previous written notice of the intention to terminate; upon such notice being given this agreement shall terminate at the end of said five years.

2. Her Majesty covenants that the Government of Canada will complete the line of railway between Selkirk and Emerson within twelve months from the date hereof, and thereafter keep the same in an efficient state of repair.

3. George Stephen covenants that the St. Paul and Pacific Railway and connections will be completed to the boundary line, at or near St. Vincent, within twelve months from the date of this agreement, and will thereafter be kept in an efficient state of repair and be worked efficiently.

4. Her Majesty covenants that upon the St. Paul and Pacific Railway Company's lines and connections being completed within the said period, so as to make a complete through line from Emerson to St. Paul, and connecting with lines to Duluth, the Government of Canada will permit connection to be made with their said line by the St. Paul and Pacific line.

5. Also, that until the Government line has been equipped with the necessary rolling stock, &c., so that the same may be worked by the Government, the St. Paul and Pacific Railway Company are to have the privilege of running freight and passenger trains to and from the boundary line and intermediate stations from and to Winnipeg or Selkirk, furnishing their own train and station service.

6. And for such privilege the said George Stephen covenants that Her Majesty will be paid such rates per ton per mile for freight, and per passenger per mile for passengers, as may, from time to time, be agreed upon by the parties, or in default of agreement, as may be, from time to time, fixed by arbitration.

7. Both the parties hereto agree, that, on or before the first day of February in each year, either party is to be at liberty to propose to the other a change of rates for the privilege given by the fifth clause hereof, and in default of agreement as to the changes to be made, the matter is to be settled by arbitration.

8. Also that the Minister of Public Works is to fix maximum rates of speed at which the St. Paul and Pacific Railway Company's freight and passenger trains respectively may be run on the Government line, and such rates are not to be exceeded.

9. George Stephen covenants that no tolls for the carriage of freight or passengers from or to any place in the Province of Manitoba or from any other place in Manitoba or elsewhere shall be levied or taken by the St. Paul and Pacific Railway Company until the tariff thereof has been approved by the Governor General of Canada in Council, and he agrees that such tariff shall be subject to revision by the Governor

in Council from time to time after approval thereof, and that after an Order in Council altering the tariff has been made and communicated to the Company, the tolls mentioned in such order in Council shall be substituted for those mentioned in the tariff previous to its being altered.

10. George Stephen covenants that the St. Paul and Pacific Railway Company will make fair and reasonable arrangements as to the proportion of rates and fares for the transfer of freight and passengers at the junction at or near Glyndon, of the St. Paul and Pacific Railway and the Northern Pacific Railway, so that traffic to and from the Province of Manitoba from and to Canada, *viâ* Lake Superior, may be carried on freely without interruption or break of bulk; also that the rates and fares to be charged by the St. Paul and Pacific Railway Company for the carriage to and from Emerson from and to Glyndon of freight and passengers consigned to or going to Canada *viâ* Lake Superior, or consigned to or going to Manitoba from Canada *viâ* Lake Superior, shall not exceed a fair proportion of the through rates between Emerson and St. Paul.

11. That should the Government line be equipped with the necessary rolling stock, &c., for the efficient working of the same, Her Majesty may at any time thereafter, by a written notice in that behalf to the said George Stephen or to the said Company, terminate the privilege given to the Company by the fifth clause hereof, either in whole or in part, and from and after such termination, Her Majesty covenants that the said Government line shall be thereafter worked efficiently.

12. In case the Government line be equipped and worked by the Government or their assigns, and the privilege above referred to be terminated, the parties hereto agree to interchange traffic at the boundary line upon the following terms:—Cars of either party are to be taken over the line of the other party without breaking bulk, on such terms as to mileage and otherwise as may be agreed upon, or in default of agreement, as may be fixed by arbitration. Through rates both for passengers and freight are to be fixed by mutual agreement, or in default of agreement, are to be settled by arbitration. Such rates to be divided on a fair proportion, to be mutually agreed upon, or in default of agreement, to be settled by arbitration.

13. The accounts between the parties are to be settled monthly, and any balance due by either to the other is to be promptly paid.

14. Her Majesty covenants that during the continuance of this agreement, the Government of Canada will not interchange freight or passengers carried or for carriage on the said Government line with any other railway company or with any steamboat, and will not, without the consent of the St. Paul and Pacific Railway Company, permit the cars of any other railway company south of the boundary to

pass over the said Government line from or near the boundary northwards.

15. George Stephen covenants with Her Majesty that during the continuance of this agreement the St. Paul and Pacific Railway Company will not interchange freight or passengers coming from or consigned or going to Manitoba with any other railway company, or with any steamboat, and will not without the consent of the proper officers of the Government, permit the cars of any other railway company north of the boundary, to pass over their line from or near the boundary southwards.

16. Notwithstanding Her Majesty's covenant that the Government line shall be kept in repair, it shall be the duty of the St. Paul and Pacific Railway Company, so long as they use the privilege given by the fifth clause hereof, not to run trains over any part of the Government line which may be out of repair, and in case any accident or injury happens to any person or property by reason of the running of trains while the line is out of repair, Her Majesty is in no way to be responsible.

17. The St. Paul and Pacific Railway Company are to notify the proper officers of the Government of any want of repair of the Government line, and in case the necessary repairs be not forthwith made by the Government, the St. Paul and Pacific Railway Company are to be at liberty to make the repairs, charging Her Majesty with the cost thereof. Should any dispute arise as to the necessity for the repairs or the cost thereof, the matter is to be settled by arbitration.

18. That should a breach happen on the part of the St. Paul and Pacific Railway Company of any one of the 3rd, 6th, 7th, 8th, 9th, 10th, 12th, 13th, 15th, or 23rd clauses hereof, Her Majesty may by a notice in writing to that Company, or to the said George Stephen, terminate this agreement from and after a day to be named in such notice.

19. That should a breach happen on the part of Her Majesty of any one of the 2nd, 4th, 5th, 7th, 11th, 12th, 13th, or 14th clauses hereof, the said George Stephen, or the St. Paul and Pacific Railway Company, may, by a notice in writing to the Minister of Public Works, terminate this agreement from and after a day to be named in such notice. Either party may, however, at any time in writing, waive any such notice, but any waiver, whether of any such notice or any breach of this agreement shall extend only to the notice or breach so waived, and shall not limit the right of the party so waiving in respect of any other or future breach.

20. That should any difference arise between the Government of Canada and the St. Paul and Pacific Railway Company or the said George Stephen, respecting the carrying out of any clause of this agreement, such difference shall, from time to time, as the same may arise, be referred to the

award and determination of three arbitrators, one to be nominated by the Government of Canada, one by the St. Paul and Pacific Railway Company, or by the said George Stephen, and the third by the two so nominated: Provided always, that if either party should for one month after notice from the other that they have nominated an arbitrator, omit or refuse to nominate an arbitrator or if the two nominated should omit or refuse to nominate the third, then the Chief Justice of the Supreme Court of Canada (or in his absence the senior puisné judge) may, on the application of either party, nominate the required arbitrator. In case of the death, resignation or refusal to act of any arbitrator, or if, for any other cause, the office of any arbitrator becomes vacant, his successor shall be nominated in the same manner as such arbitrator was nominated, unless the parties otherwise agree; and in case such successor be not within one month after the happening of the vacancy, nominated by the party entitled to nominate him, then the said chief justice, or in his absence, the said senior puisné judge, may, on the application of either party, nominate such successor.

21. The arbitrators shall, within one month after the last appointment, proceed to determine the matters referred, and they or a majority of them shall make and publish their award in writing within one month after the closing of the hearing of the arbitration: Provided always, that any of the judges of the Supreme Court of Canada may, on the application of either party, either before or after the expiration of such one month, or of any extended time, from time to time extend the time for making such award. The award of the said arbitrators, or a majority of them, shall be final.

22. Should the St. Paul and Pacific Railway not be completed to Emerson within twelve months from the date hereof, the Government of Canada may, by written notice to that Company, or to the said George Stephen, determine this agreement.

23. The said George Stephen covenants with Her Majesty that he will, upon request, so soon as the foreclosure proceedings against the St. Paul and Pacific Railway Company, now in progress, by the bondholders have terminated, and the Company has passed under the control of the bondholders, procure an agreement with Her Majesty, and the said Company or any other company which may be formed for the working of their lines, to be duly executed under the corporate seal of such Company, and countersigned by all necessary officials, and delivered to the Minister of Public Works of Canada.

In witness whereof, the said George Stephen has hereto set his hand and seal, and the Minister of Public Works has hereto set his hand, and these presents have been sealed

with the seal of the Department of Public Works, and countersigned by the Secretary of the Department.

Signed, sealed and delivered in presence of (as to execution by Geo. Stephen), (Signed) JOHN LESLIE, Clerk, Dept. of Justice.	}	(Signed) GEO. STEPHEN. (Seal.)
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(As to execution by the Minister and Secretary of Public Works), (Signed) H. A. FISSIAULT.	}	A. MACKENZIE. F. BRAUN, Secretary. (Seal.)
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42 VIC., CHAP. 14.

An Act further to amend "*The Canadian Pacific Railway Act, 1874.*"

[Assented to 15th May, 1879.]

Preamble.

WHEREAS it is expedient to provide for the connection of the main line of the Canadian Pacific Railway with the city of Winnipeg and the Pembina Branch of the said railway : Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Branch line
to Winnipeg
authorized.

1. A branch of the Canadian Pacific Railway shall be constructed from some point west of the Red River, on that part of the main line running south of Lake Manitoba, to the city of Winnipeg, there to connect with the branch line from Fort Garry to Pembina; and all the provisions of "*The Canadian Pacific Railway Act, 1874,*" with respect to branches of the said railway, not inconsistent with this Act, shall apply to the branch to be constructed under this Act.

37 V., c. 14,
to apply.

Expenditure
of \$1,000,000
authorized.

2. A sum not exceeding one million of dollars, may be expended on that part of the main line west of the Red River, and the branch hereby authorized, without the previous submission of the contracts under which such expenditure is made to Parliament, if the Governor in Council deem such expenditure expedient.

How to be
paid and ac-
counted for.

3. The sums of money of which the expenditure is hereby authorized shall be paid out of the sum appropriated for the purpose in the present Session, and accounted for under the provisions of the twenty-second section of the Act hereby amended.

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42 VIC., CHAP. 28.

An Act to amend the Acts respecting the Trinity House
and Harbor Commissioners of Montreal.

[Assented to 15th May, 1879.]

HER Majesty, by and with the advice and consent of the Preamble.
Senate and House of Commons of Canada, enacts as
follows:—

1. The Harbor Commissioners of Montreal may make by-laws from time to time re-adjusting the tariff of tolls, rates, dues and duties, to be levied in the said harbor, under the Act passed in the thirty-sixth year of Her Majesty's reign, intituled, "*An Act respecting the Trinity House and Harbor Commissioners of Montreal*," and the Acts amending it; and all the provisions and remedies contained in the said Acts respecting the levying of such tolls, rates, dues and duties, shall be applicable to them, as re-adjusted by such by-law: Provided always, that such re-adjusted tariff shall not increase, in the whole, the tolls, rates, dues and duties now in force in the said harbor; and provided also, that such re-adjusted tariff shall not be in force until approved by the Governor in Council.

Commissioners may, re-adjust tolls under 36 V., c. 61.

Proviso.

Proviso.

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Excellent Majesty.



42 VIC., CHAP. 29.

An Act to amend the "*Act respecting the Harbor of Pictou, in Nova Scotia.*"

[Assented to 15th May, 1879.]

Preamble.

36 V., c. 63.

IN amendment to the Act passed in the thirty-sixth year of Her Majesty's reign, and intituled, "*An Act respecting the Harbor of Pictou, in Nova Scotia*": Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Commis-
sioners may
employ
policemen.

Powers and
duties of
policemen.

1. It shall be lawful for the Commissioners appointed under the said Act to have the superintendence of the said harbor of Pictou, to appoint from time to time, with the approval of the Minister of Marine and Fisheries, and to pay out of the proceeds of the harbor dues collected under the said Act and received by them, fit and proper persons not exceeding three in number, as police constables, who being duly sworn as such by any justice of the peace for the locality, shall, while so employed, obey all lawful orders of the said Commissioners, and shall have, in the said harbor and for the distance of three miles from the boundaries thereof, all the rights, powers and responsibilities of constables duly appointed in Nova Scotia, but for the purpose only of carrying out this Act, and the criminal laws of the Dominion.

Extent of
harbor
declared.

2. And in amendment of the said Act, and for removing doubts under it, and more especially under the fifth section thereof, it is declared and enacted that the said section and Act do and shall extend and apply to the South Market Street wharf, and to any other wharf or wharves which the Commissioners have built or may hereafter build, as fully and effectually as to the public wharf mentioned in the said fifth section.

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42 VIC., CHAP. 30.

An Act respecting the Harbor of North Sydney in Nova Scotia.

[Assented to 15th May, 1879.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. In the construction and for the purposes of this Act (if not inconsistent with the context or subject matter), the following terms shall have the respective meanings herein-after assigned to them, that is to say: "Ship" shall include every description of vessel used in navigation, not propelled by oars; "Master" shall include every person (except a pilot) having command or charge of a ship. Interpretation clause.
2. The Governor may, from time to time appoint three Commissioners under this Act to have superintendence of the harbor and harbor master of the port of North Sydney, in the Province of Nova Scotia. Appointment of Commissioners.
3. The Commissioners shall, from time to time, appoint a fit and proper person to be harbor master for the said port of North Sydney. Harbor Master.
4. The Commissioners appointed under this Act shall be under the control of the Minister of Marine and Fisheries, to whom they shall respectively furnish a report in writing, and on oath, on or as soon as possible after the thirty-first day of December of each year, of their doings in office and of the moneys received and expended by them, in such form as the said Minister may direct. Control of, and report to, Minister of Marine and Fisheries.
5. The said Commissioners shall have power, from time to time, with the consent of the Governor in Council, to make, repeal or amend rules and regulations defining the rights, powers and duties of the harbor master of the said port, and the use, management and government of the said harbor, and providing for the erection and location of ballast and other wharves, and the rates of wharfage to be paid for the use of such wharves; and by such rules and regulations to impose reasonable penalties, not in any case exceeding Powers of Commissioners. Regulations for Harbor. Penalties; amount limited.

one hundred dollars for any breach of such rules and regulations, with, in the case of continuing breach thereof, a further penalty not exceeding ten dollars for every twelve hours during which such breach continues,—but so that no such rule or regulation shall impose a minimum penalty; and every breach of any such rule or regulation shall be deemed an offence against this Act, and every such penalty shall be held to be a penalty imposed by this Act.

Books to be kept.

6. The said Commissioners shall keep, or cause to be kept, a book or books in which shall be entered, from day to day, every vessel arriving in the harbor and sailing from the harbor, together with the description, tonnage and value of cargoes entered inwards and outwards.

Buoys and beacons.

7. The said Commissioners shall place and maintain the necessary buoys and beacons in and for the said harbor.

Salary of harbor master.

8. The salary of the harbor master shall be at the rate of not exceeding four hundred dollars per annum.

Dues on ships using the harbor.

9. A rate or duty of one cent per ton on the registered tonnage of each ship exceeding forty tons register, shall be levied and collected as harbor dues on all ships over forty tons register, entering the said harbor for any purpose whatever.

Collection of dues by Customs officer.

10. The said harbor dues shall be collected by the collector of Customs at the said port, who shall not grant entry inwards or clearance outwards to any ship until the harbor dues on her are paid; and shall pay over to the said Commissioners on the last day of each quarter, namely, on the thirty-first March, thirtieth June, thirtieth September, and thirty-first December or as soon thereafter as possible, the amount so collected, for the maintenance and improvement of the said harbor and wharves, and the buoys, beacons and other appurtenances thereof.

Employees.

11. It shall be lawful for the said Commissioners to appoint such officers, assistants and servants as may be found necessary for the maintenance and improvement of the said harbor, the erection of ballast or other wharves, and the carrying out of the provisions of this Act; and with the approval of the Minister of Marine and Fisheries, to appoint from time to time, and pay out of the proceeds of the said harbor dues, fit and proper persons, not exceeding three in number as police constables, who, being duly sworn as such by any justice of the peace for the locality, shall, while so employed, obey all lawful orders of the said Commissioners, and shall have in the said harbor, and for the distance of three miles from the boundaries thereof, all the rights, powers and responsibilities of constables duly appointed in

Harbor police; and their powers,

Nova Scotia, but for the purpose only of carrying out this Act, and the criminal laws of the Dominion.

12. The said Commissioners shall pay out of the sums received by them as harbor dues from the collector of Customs, the salary of the harbor master and other necessary expenses for carrying out this Act, and shall expend so much of the balance as may remain after the payment of the necessary expenses of the maintenance and repairs of the said harbor, ballast or other wharves, beacons and other appurtenances, in the improvement of the said harbor, ballast and other wharves and appurtenances, in such manner and according to such plans as may be suggested by them, and approved by the Minister of Marine and Fisheries.

Application
of harbor
dues by Com-
missioners.

With ap-
proval of Min-
ister.

13. The said harbor shall include and consist of all the water space and beach, up to high water mark, within a line drawn from the point of the North Bar to Fraser's Wharf on the south side of the harbor, and from Fraser's Wharf on the South Bar to Point Edward, including the North-West Arm.

Extent of the
harbor.

14. So much of chapter seventy-nine of the Revised Statutes of Nova Scotia, and of the Act of the Parliament of the Dominion of Canada, passed in the thirty-sixth year of Her Majesty's reign, chaptered nine, and intituled, "*An Act to provide for the appointment of harbor masters for certain ports in the Provinces of Nova Scotia and New Brunswick*," and of any other Act or by-law, rule or regulation as is inconsistent with this Act, or as makes any provision for any matter provided for in this Act, is hereby repealed.

Parts of chap.
79 of R. S.
Nova Scotia
and Act of
Canada, 36
V., c. 9,
repealed.



42 VIC., CHAP. 48.

An Act to provide for the Liquidation of the affairs of Building Societies in the Province of Quebec.

[Assented to 15th May, 1879.]

Preamble.

WHEREAS a large number of persons of limited means have invested their earnings in building societies in the Province of Quebec, and on account of a long period of depression such persons are exposed to lose their earnings for want of means to continue the payment of their contributions, and it is expedient to come to their relief by providing a speedy and inexpensive mode of liquidating the affairs of such societies in the said Province: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Liquidation may be resolved upon at any general meeting after notice.

1. Any building society in the Province of Quebec may, at any annual general meeting, or at any special general meeting, by a majority of two thirds of the votes of the members present in person or by proxy at such meeting,—each member being entitled to one vote for every share then held by him,—adopt a resolution for the liquidation of the society's affairs: Provided, that public notice of such meeting, and of the proposal to liquidate to be made thereat, shall have been given at least fifteen days previously in a French newspaper and in an English newspaper in the locality; and provided also, that a special notice, containing the same information as the public notice, shall have been sent by post to each member of the society at least fifteen days before such meeting; and from and after the adoption of such resolution the society shall be deemed to be in liquidation.

Its effect.

Liquidators may then be appointed.

2. The shareholders may, at the same meeting, by a majority of the votes given, appoint three or five liquidators, who shall take the place of the directors then in office, and shall be charged with the duty of liquidating the affairs of the society; and any director then in office may be appointed a liquidator.

President.

3. The liquidators shall elect one of their number to be their president; and the majority of the liquidators shall form a quorum or the board of liquidators; and every

Quorum.

question shall be decided by the majority of the votes of the liquidators present at the meeting of the board at which it is put to the vote; and the president shall have a casting vote.

Decisions of questions.

4. The liquidators shall have all the powers conferred, and be subject to all the obligations towards the shareholders imposed by law and by the by-laws of the society, upon the directors. Nevertheless the society shall not transact any business except such as may be requisite for the purpose of accomplishing the liquidation; and the liquidators shall proceed with diligence to realize all the assets of the society without any unnecessary sacrifice; and to that end they may dispose, either by private sale or by auction, of the movable and immovable property of the society, including the debts due to it, and they may compound and compromise with the society's debtors and do whatever they may deem to be advisable in order to the liquidation of the affairs of the society on the most advantageous terms.

Powers and duties of liquidators.

Proviso.

Realizing assets, disposing of claims, &c.

5. After paying the society's debts, the liquidators shall divide from time to time, and at such times as they shall decide themselves, by way of dividend, what they have realized from the assets. This division shall be made proportionally to the amount paid in by each shareholder; but no shareholder in arrear on the payment of his calls shall be entitled to participate in the division so long as the other shareholders shall not have been reimbursed in full for the payment of those calls which he shall have neglected to pay; and every shareholder so in arrear shall be charged with interest at the rate of six per cent. per annum on the amount of his calls due and unpaid, and such interest shall diminish in proportion to the amount which shall be reimbursed to the other shareholders in respect of the same calls.

Division of amounts realized from sale of assets.

How made and who to participate in, &c.

6. In case it should be resolved to pay some of the members by means of transfers of claims or moneys due to the society, it shall be lawful for the liquidators to divide the debts due to the society into several parts, and to transfer a part or parts to different members; and the debtors of whose debts such transfers may be made shall suffer such division and pay to the creditors so delegated;—provided however, that no debt shall be divided into more than four parts, and that the debtor shall not be bound to pay elsewhere than at his domicile, if he has any, where the debt was contracted; and if he has no domicile, then he shall be bound to pay at the domicile or elected domicile of the creditors in the place where the debt was contracted.

Members may be paid by transfer of claims

Effect of transfer.

7. The principal money due under every obligation executed by any shareholder in favor of the society, the day

As to payment of principal money

due to the
Society under
obligations.

of payment of which is undefined, or which is appointed to be paid on the extinction of any class, shall continue to become payable according to the terms of the obligation itself, and of the by-laws of the society; but moreover, the liquidators may, from time to time, exact on account of the principal moneys of such obligations the payment of such amounts as may be necessary for the purpose of placing the shareholders on a footing of equality with respect to the final result of the liquidation; but such amounts shall not become payable until after a month's notice to the debtors.

Provision
when appro-
priations to
members are
payable by
terms with-
out interest.

8. In any society or societies where the appropriations obtained by members are repayable to the society in payments extending over a term of years without interest, then the members having obtained any such appropriation or appropriations, and being bound by obligation or otherwise so to repay the same, shall pay to the said liquidators in addition to the principal sum or sums so received by them, and each of them, a sum of money which shall be equivalent to interest at the rate of seven per centum per annum, for the time for which they and each of them shall have had the use of the said principal sum or sums, or any portion thereof;—the said amount so to be payable for interest to be computed from the time each of such members received the principal sum of each appropriation up to the time that he shall have repaid it in full, and in such manner that he shall pay interest for the length of time he shall have had the said sum or sums and each or any portion thereof, on the said sum or sums or on the portion or portions thereof he shall have had and not repaid as the case may be. The total amount of the said interest having been so ascertained the said liquidators shall credit, on account thereof, the said debtor with the amount of weekly subscriptions paid in by him upon the subscription book on which he has obtained any such appropriation, up to the date of the liquidation of such society, and shall apportion the balance into payments to be made at such times as they may fix during and beyond the term granted for the repayment of the principal sum of the said appropriation: Provided always, that the said debtor shall not be obliged to pay in any one year, as such interest, any larger sum than the amount which, had the society continued in operation, he would have been bound to pay in such year as subscriptions on the subscription book, on which he obtained such appropriation:

Proviso.

As to amount
paid as pre-
miums for
appropria-
tion.

No amount paid by any member as premium or bonus for the obtaining of any appropriation shall be credited on account of or imputed in deduction of the said amount to be paid by him as interest, under the foregoing provisions.

Liquidators
to obey
orders from
meetings.

9. The liquidator or liquidators shall give such security and shall receive such remuneration as may be determined

upon at a meeting of the shareholders, and shall be at all times bound to obey orders given to them by resolutions adopted at a regular meeting of the members, and may be dismissed at any such meeting; and on their dismissal they shall hand over all the assets of the society, as well as all its books and papers, to their successors, or to any person appointed by such meeting, under a penalty of fifty dollars for every day of retention of any such assets, books or papers,—which penalty may be recovered by any member of the society by civil action as a debt, and shall be enforceable by imprisonment until paid.

And pay over
on dismissal.

10. The shareholders in general meeting assembled may authorize the division in kind of the whole or a part of the property of the society, and also the payment in kind of the proportional amount accruing to any shareholder in respect of his shares; they may also authorize the sale in one lot of all the assets of the society, on such terms as they may see fit; they may also authorize the liquidators to purchase for the benefit of the society the rights of any shareholder, and to pay for the same either in money or in kind,—that is to say, with the property of the society.

Shareholders
may authorize
division in
kind of the
property of
the Society.

11. The liquidators shall not be subject to any greater responsibility than the directors of the society are subject to by law and by the by-laws of the society. Their remuneration shall be fixed by the shareholders in general meeting assembled, and they shall be bound to give such security as the shareholders may require. They shall be subject to instructions from the shareholders, in so far as the same may be compatible with the laws and with the by-laws of the society. They may be removed from office by the shareholders at any meeting, and replaced by others; and in the case of any vacancy arising among them, either by death, refusal to act, incapacity, removal from office or otherwise, such vacancy shall be filled by the shareholders at any general meeting; and until any such vacancy has been filled the liquidators remaining in office shall continue to exercise the same powers; but it shall be their duty to call, with all convenient speed, a meeting of the shareholders for the purpose of filling the vacancy.

Responsi-
bility, remu-
neration and
tenure of
office of
liquidator.

Removal and
filling vacan-
cies.

12. The liquidators shall make a report of the state of the society's affairs to the shareholders at each annual general meeting, and at such other meetings as the shareholders may determine upon for that purpose; and on the occasion of the final liquidation the liquidators shall make a report to a final meeting of the shareholders, called for that purpose, which report shall be subject to the approval of the meeting; and such meeting shall then have power to dissolve the society and to surrender its charter, which shall thereupon expire and become null and void; and at such

Interim and
final reports
of liquidators
to meetings
of share-
holders, and
dissolution of
Society at
final meeting.

Proviso, as to
unknown
creditors.

Act of Quebec
35 V., c 5,
cited.

final meeting the shareholders may make such orders as they think fit with respect to the custody of the books, papers and records of the society : Provided always, that if there remain debts to be paid to unknown creditors, or to creditors to whom payment cannot be made, the liquidators shall deposit the amount in the hands of the treasurer of the Province of Quebec, under the authority of chapter five of the Acts of the Legislature of the Province of Quebec, passed in the thirty-fifth year of Her Majesty's reign, intituled, "*An Act respecting Judicial and other Deposits*," and of the Acts amending the said Act, and shall, in so doing, comply with the formalities prescribed by the said Acts ; and the charter shall not be surrendered until after such deposit has been made.

Cessation of
fines.

13. No fine shall be incurred after the day on which liquidation is resolved upon.

Addresses of
shareholders
to be left at
office.

14. Every shareholder shall leave his address, in writing, at the society's office ; and every special notice required by this Act shall be sent to such address ; and in case any shareholder neglects to conform to the above requirement, such notices shall be addressed to him at his last known place of residence, and if there is none such, then at the place where the society has its principal office or place of business.

Power to any
fifteen share-
holders to
call a special
meeting for
the purposes
of this Act.

15. Any fifteen shareholders of any building society in the Province of Quebec shall have power to call a special general meeting of the shareholders thereof for the purposes of this Act, by giving public notice thereof in conformity with the first section of this Act.

Limitation of
application
of Act.

16. This Act shall not apply to permanent shares of any building society, if such shares are all paid and converted into unredeemable stock, unless three-fourths of the members present at a meeting held for the purpose of liquidating agree to liquidate.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



42 VIC., CHAP. 49.

An Act respecting Building Societies carrying on business in the Province of Ontario.

[Assented to 15th May, 1879.]

WHEREAS by the second section of the Act passed in the fortieth year of Her Majesty's reign, chapter forty-nine, it is enacted as follows :—“ The aggregate amount of money deposits in the hands of any such society, together with the amount of its debentures issued and remaining unpaid, may be equal to, but shall not, at any time, exceed double the amount of the unimpaired, capitalized, fixed and permanent stock in such society, not liable to be withdrawn therefrom : Provided always, that the amount held by any society on deposit shall not exceed the amount of the paid up and unimpaired capital of such society, and that the total liabilities of any such society shall not at any time exceed the amount of principal remaining unpaid on the mortgages at such time held by such society ; and that, in estimating the liabilities of any such society, the amount of cash actually in the hands of such society or deposited to its credit in any chartered bank, shall be deducted therefrom ; and that in estimating the unimpaired, capitalized, fixed and permanent stock of any such society the amount of all loans or advances made by it to its shareholders upon the security of their stock shall be deducted therefrom : ”

Preamble.
Sect. 2 of 40
V., c. 49,
cited.

And its
Proviso.

And whereas doubts may arise as to the meaning of the words “ liabilities of such society ” where the same occur in the said section :

And whereas it is expedient to remove such doubts and to amend the said Act :

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows : —

1. In the said section the words “ liabilities of such society,” or “ total liabilities of such society,” shall be taken to mean, and are hereby declared to mean, only the liabilities of any such society to the public, and shall not be taken to include, and it is hereby declared that the same do not include the liability of any such society to its shareholders in respect of its capital stock, or otherwise to its shareholders as such.

Certain words
in section 2 of
40 V., c. 49
interpreted.

Permanent Building Societies in the Province of Ontario under Dominion laws, may carry on business in the Province of Manitoba and in the North-West Territories.

2. Any permanent building society carrying on business in the Province of Ontario, under the laws of the Dominion, having a fixed and permanent capital stock of not less than one hundred thousand dollars, is hereby authorized to carry on business in the Province of Manitoba or in the North-West Territories, or in any Province that may be formed out of the same; and for such purpose is hereby declared to be a body corporate with all the powers, privileges and liabilities heretofore enjoyed by such society in the Province of Ontario only.

And may hold real estate.

3. Any such society may hold, absolutely, real estate for the purposes of or in connection with its place or places of business, not exceeding the annual value of ten thousand dollars; but this section shall not affect any action or suit now pending.

In case of the transmission of interest in any share, &c., otherwise than by transfer, directors may require a written declaration showing the nature of such transmission.

4. If the interest of any person or persons in any share or shares in the capital stock, or in any bond, debenture or obligation of any such society,—such bond, debenture or obligation not being payable to bearer,—hath become, or shall become transmitted in consequence of the death or bankruptcy or insolvency of any such holder, or in consequence of the marriage of a female holder or by any other lawful means other than a transfer upon the books of the society, the directors shall not be bound to allow any transfer pursuant to such transmission to be entered upon the books of the society, or to recognize such transmission in any manner until a declaration in writing, showing the nature of such transmission, and signed and executed by the person or persons claiming by virtue of such transmission, and also executed by the former shareholder, if living and having power to execute the same, shall have been filed with the manager of the society, and approved by the directors; and if such declaration purporting to be signed and executed shall also purport to be made or acknowledged in the presence of a notary public, or of a judge of a court of record, or of a mayor of any city, town or borough or other place, or a British Consul or Vice-Consul, or other accredited representative of the British Government in any foreign country, the directors may, in the absence of direct actual notice of a contrary claim, give full credit to such declaration, and unless the directors are not satisfied with the responsibility of the transferee, shall allow the name of the party claiming by virtue of such transmission to be entered in the books of the society.

What shall be sufficient justification of directors for recognizing transmission if by

5. If such transmission has taken place or shall hereafter take place by virtue of any testamentary act or instrument, or in consequence of an intestacy, the probate of the will, or letters of administration, or act of curatorship, or testamentary, or testamentary expede, or other judicial

or official document under which the title whether beneficial or as trustee, or the administration or control of the personal estate of the deceased, shall purport to be granted by any court or authority in the Dominion of Canada, or in Great Britain or Ireland, or any other of Her Majesty's Dominions, or in any foreign country, or an authenticated copy thereof, or official extract therefrom, shall, together with the said declaration, be produced and deposited with the manager; and such production and deposit shall be sufficient justification and authority to the directors for paying the amount or value of any dividend, coupon, bond, debenture, or obligation or share, or transferring or consenting to the transfer of any bond, debenture, or obligation or share, in pursuance of and in conformity to such probate, letters of administration or other such document as aforesaid.

will or
intestacy.

6. Whenever the directors shall entertain reasonable doubts as to the legality of any claim to or upon such share or shares, bonds, debentures, obligations, dividends, coupons, or the proceeds thereof, then and in such case it shall be lawful for the society to file in any one of the superior courts of law, or in the Court of Chancery, in the Province of Ontario, a petition stating such doubts and praying for an order or judgment adjudicating and awarding the said shares, bonds, debentures or obligations, dividends, coupons or proceeds to the party or parties legally entitled to the same; and such court shall have authority to restrain any action, suit or proceeding against the society, the directors or officers thereof, for the same subject matter, pending the determination of the said petition; and the society and the directors and officers thereof shall be fully protected and indemnified by obedience to such order or judgment against all actions, suits, claims and demands in respect of the matters which shall have been in question in such petition and the proceedings thereupon: Provided always, that if the court adjudges that such doubts were reasonable, the costs, charges and expenses of the society, in and about such petition and proceedings, shall form a lien upon such shares, bonds, debentures or obligations, dividends, coupons or proceeds, and shall be paid to the said society before the society shall be obliged to transfer or assent to the transfer, or to pay such shares, bonds, debentures or obligations, dividends, coupons or proceeds to the party or parties found entitled thereto.

Provision for
case of di-
rectors hav-
ing reason-
able doubts
as to legality
of any claim
to any share,
&c.

7. The word "society" in this Act shall also include and mean "company."

"Society"
interpreted.



42 VIC., CHAP. 51.

An Act to amend so much of the Act thirty-third Victoria, chapter forty-six, as relates to the imposition and collection of dues and tolls upon logs, timber, pine, cedar and railway ties, passing down the River Moira through the Port of Belleville.

[Assented to 15th May, 1879.]

Preamble.

33 V., c. 46. **W**HEREAS certain persons engaged in the manufacture of lumber, timber, railway ties and other stuff in the Bay of Quinté, and who float in each year down the Moira River, and through the port of Belleville large quantities of saw logs, timber, cedar and railway ties, have represented by their petition that the dues now imposed by the Corporation of the city of Belleville are excessive and unjust, and that no provision is made by the said corporation in return for the said tolls or adequate thereto, for the safety or protection of the stuff brought down the said river, and have prayed that the Act thirty-third Victoria, chapter forty-six, intituled, "*An Act to authorize the Town of Belleville to impose and collect Harbor Dues, and for other purposes,*" may be amended as is hereinafter mentioned; and whereas it is expedient to grant the prayer of the said petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Provision as to certain tolls, added to Sect. 1, of 33 V., c. 46.

1. The first section of the Act passed in the thirty-third year of the reign of Her Majesty Queen Victoria, chaptered forty-six, intituled, "*An Act to authorize the Town of Belleville to impose and collect Harbor dues, and for other purposes,*" is hereby amended by adding thereto the following words: "Provided always, and it is hereby enacted, that the Corporation of the town of Belleville may, from time to time, alter, amend or change the said dues or tolls so fixed, or any part of them, subject always to revision by the Governor in Council, as in this Act hereinafter provided."

Governor may alter tolls.

2. The Governor in Council shall have the power, on proper cause shown, and he is hereby authorized to revise, alter, amend or change the said tolls, or any part of them, to such extent as the justice and right of the case may require.

3. So long as the Corporation of the city of Belleville collects dues or tolls upon logs, timber, pine, cedar and railway ties passing down the Moira River, through or into the port of Belleville, or through or into the said harbor, it shall be the duty of the said Corporation to make and maintain proper and sufficient piers and booms, in the said harbor, to protect the said logs, timber, pine, cedar and railway ties from escaping into the Bay of Quinté, in order to the sorting and separation of the said property by the respective owners thereof: Provided however, that the said corporation shall not be responsible for the escape of any such logs, timber, pine, cedar or railway ties, by reason of the accidental or other breaking or cutting of the said booms and piers, so long as the said piers and booms are kept and maintained in a proper and efficient state of repair.

Booms to be made and maintained while tolls are collected. Proviso.

Proviso: Corporation not responsible in certain cases.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



43 VIC., CHAP. 8.

An Act to confirm the purchase, by the Dominion, of a portion of the Grand Trunk Railway, and the agreement made with the Grand Trunk Railway Company of Canada with respect thereto.

[Assented to 29th April, 1880.]

Preamble.

42 V. c. 11.

WHEREAS pursuant to the provisions of an Act passed in the forty-second year of Her Majesty's reign, chapter eleven, intituled, "*An Act for the acquisition by the Dominion of a certain portion of the Grand Trunk Railway, to be made part of the Intercolonial Railway,*" the Grand Trunk Railway Company of Canada sold and Her Majesty bought that portion of the said Company's line of railway described in the indenture set out in the schedule hereto annexed marked A, and the parties entered into the agreements contained in the said indenture :

And whereas, for the avoidance of doubt, it is expedient to confirm the said purchase and sale and the said agreements, and the title of Her Majesty to the line of railway so bought :

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Agreement as per Schedule A, confirmed, and the railway vested in the Crown, free of all incumbrances.

1. The indenture or agreement set forth in the schedule hereto, marked A, is hereby confirmed and declared to have been and to be valid and binding in all respects, and the line of railway and the property, rights, easements and privileges granted and secured to Her Majesty, Her heirs successors, by the said indenture, are hereby declared to be vested in Her Majesty, free and clear from all charges, liens or incumbrances (if any) thereon, under or by virtue or in respect of any mortgage, bonds, debentures, preference stocks, or other securities issued by the said Company.

SCHEDULE A.

THE GRAND TRUNK RAILWAY COMPANY OF CANADA, TO HER
MAJESTY QUEEN VICTORIA FOR THE DOMINION OF CANADA.

*Agreement for Purchase and Surrender of the Rivière du
Loup Line.*

THIS INDENTURE, made this seventeenth day of July, in the year of our Lord one thousand eight hundred and seventy-nine:

By and between Her Majesty Queen Victoria, represented herein by the Honorable the Minister of Railways and Canals of Canada, and hereinafter called or referred to as "the Government," of the first part, and the Grand Trunk Railway Company of Canada, hereinafter called "the Company," of the second part;

Whereas by an Act of the Parliament of the Dominion of Canada passed in the late session thereof, and entitled, "*An Act for the acquisition by the Dominion of a certain portion of the Grand Trunk Railway, to be made part of the Intercolonial Railway,*" it is provided that the Government may enter into arrangements with the Company for the purchase by the Dominion of that part of the Grand Trunk Railway between Rivière du Loup and Hadlow, with such metes and bounds, and such appurtenances (except certain rails then in use thereon) as may be deemed expedient, and for running powers between the Chaudière Junction and Point Lévis, and other obligations and services by either party to the other on equitable terms, to be agreed upon by the parties, and that Her Majesty may acquire the said property and rights, and the Company may sell and convey the same to Her Majesty for the Dominion of Canada according to such agreement, but that the said Act should not take effect unless and until submitted to a special general meeting of the Company, and accepted by a majority, consisting of two-thirds of the votes of the persons present, or represented by proxy, entitled to vote. And it is further provided in and by the said Act, that payment of the purchase money (which shall not exceed one million five hundred thousand dollars,) shall only be made to cover expenditure for such purpose in connection with the Grand Trunk Railway as the Government shall consider conducive to the public advantage, and that interest at six per cent. per annum shall be allowed on any purchase money remaining unpaid for thirty days after the payment of the same has become due under the agreement, and that interest at six per cent. per annum shall be allowed upon the value of such rails not purchased as part of the line, as may not be taken up and delivered by the Government to the Company according to agreement, so long as the

same shall remain upon the line, after the period agreed upon, —the value of such rails to be computed at their then marketable value ;

And whereas, afterwards, the said Act was duly submitted to a special general meeting of the said Company, the party thereto of the second part, duly called and held according to the provisions of the statutes in that behalf, and was unanimously accepted and approved by the votes of the persons present, or represented by proxy, entitled to vote, according to the requirements of the above recited Act ;

Now the said parties hereto agree as follows, that is to say :—

1. That they, the Government, do purchase the line of the Grand Trunk Railway from its junction with the Intercolonial Railway at Rivière du Loup, up to, and including, the first bridge east of the Hadlow Cove station grounds, including the Western Branch at Chaudière Junction ; the switch on this line entering the main track of the Grand Trunk Railway to be under the charge of the said Company.

2. That the transfer shall include all the lands, lands covered with water, ballast pits, roadway with sleepers thereon, all sidings complete (that is in the state they now are,) all track laid with steel rails on the Rivière du Loup branch, and all the tracks complete as they now exist between the east switch at Chaudière Junction and the first bridge east of the Hadlow Cove station grounds ; also, station yard, all buildings, sheds and fences ; also the right of the Company in the telegraph lines and appliances, all stationary engines, boilers, machinery, wind-mills, water tanks, water privileges and appliances,— in fact the entire property of the Company on the said section of the road, except the old iron rails and fastenings thereof in the main line track, and ballast pit sidings between Rivière du Loup and Chaudière Junction, and excepting the cordwood, small stores, station furniture, section-men's tools, hand-cars and rolling stock ; excepting also the new sleepers and new fencing materials delivered along the line.

3. That the old iron rails and fastenings thereof, excepted, as above mentioned, from the said purchase and sale, shall be delivered by the Government to the Company on cars (to be furnished by the Company) along the line, as the same are taken up, which cars shall be taken by the Government from Chaudière Junction and back thereto, and at that place delivered to the Company, free of charge, within eighteen months from the date of transfer of the road ; and that, failing delivery, as aforesaid, within the time above specified, the Company shall be allowed and paid by the Government interest at the rate of six per cent. per annum upon the value of the said materials, at the then marketable value, which value is to be mutually agreed upon, or, in default of agreement, settled by arbitration, as hereinafter provided, for such length of time as may elapse between the time specified, for

delivery and the time that the actual delivery takes place; the whole, however, to be delivered by the Government to the Company within two years from the date of the transfer of the said road.

4. That the Government shall pay to the Company for the said road and property so sold the sum of one million five hundred thousand dollars, and that such purchase money shall be paid in the terms of the Act above in part recited, and the sum so to be paid, or so much thereof as may remain unpaid, shall bear interest at the rate of six per cent. per annum from the date of the transfer of the road to the Government; but should the Government at any time notify the Company of their readiness to pay over the said purchase money, or any portion thereof, and the Company not be ready to accept the same, and apply it in accordance with the terms of the said herein partly-recited Act, then and in that case, the amount unpaid shall be placed in the Bank of Montreal, subject to the order of the Government, but for the purposes set forth in this agreement, and the Company shall only be entitled to such interest thereon as the Bank may be willing to allow upon the sum so deposited.

5. That amongst the purposes which the Government consider will promote the interests of the Dominion, is the extension, either by the building or purchase of an independent line, or by such other arrangements of a permanent character with other companies as will secure free access to and from Chicago, in the State of Illinois, for the through traffic of the Company. And the Minister of Railways and Canals may, by authority of the Governor in Council, make advances to the Company from the sum agreed to be paid for the said line, at such times, and in such amounts as, in his opinion, may be necessary to enable the Company to complete the arrangements contemplated in this section.

6. That the Government will take over the road immediately upon the same being duly conveyed to the Government.

7. That the Government will take over, at a fair valuation, all such hand-cars, section-men's tools, and office furniture, as they may require for the working of the road; such valuation to be mutually agreed upon, or settled by arbitration, as hereinafter provided.

8. That they, the Government, will take over, at actual cost price, the new sleepers and fencing materials, and such of the small stores as they may consider serviceable.

9. That the Government will indemnify the Company against payments of all claims for taxes, land, land damages, and such like, springing into existence for the first time after the date of the transfer of the road. The Company to indemnify the Government against payment of all similar claims having an existence before the date of transfer.

10. That the Company shall have the right, in perpetuity, to run their trains and engines, separately or combined, and

as frequently and at such times as the character and extent of their traffic may require, under the reasonable rules and regulations of the Intercolonial Railway, and under the direction of the officials in charge thereof, between Chaudière Junction and the first bridge east of Hadlow Cove station ground; and to take up and deliver traffic at all places between these points, to and from their line, all free of charge.

11. That the Company are to be allowed, and they shall have the right under the reasonable rules and regulations of the Intercolonial Railway, to stable four engines in the Hadlow engine house, and to have access for said engines to and from said engine house, all free of charge; and the Company may require the Intercolonial Railway officials in their shops at Hadlow to make temporary repairs upon such engines, which repairs shall be done on request, with all reasonable despatch, and for these the Company shall pay the Government the actual cost thereof, said cost to include a fair proportion of the salaries and wages paid to those making such repairs.

12. The Company shall keep their railway between the Chaudière Junction and Richmond, in the Province of Quebec, at all times in as good condition as their railway between Richmond and Portland, and the Government are to keep their railway between Chaudière Junction and Hadlow bridge, aforesaid, in like good condition.

13. That the Government shall have the right, in perpetuity, and free of charge, to run their trains and engines, separately or combined, and as frequently and at such times as the character and extent of their traffic may require, under the reasonable rules and regulations of the Grand Trunk Railway Company, and under the direction of the officials thereof, between Hadlow and Point Lévis station, to and from places between these points, in the yard at Point Lévis, and to and from and beyond that station; also the right in perpetuity and free of charge to use the said Point Lévis station yard, and the tracks, sidings, platforms and appurtenances thereof; but all shunting and making up of trains in and about Point Lévis station shall be done by the said Company and under the direction of their servants.

14. That should the Government at any time desire to establish a dépôt at some point between Hadlow and Point Lévis, they shall have the right to connect such tracks as it may be necessary to construct to get to such dépôt with the track or tracks of the Company anywhere between the places named, but such connection will be made without causing any injury to the Company's property, or any injurious obstruction to the working of the line of the said Company, and without entailing upon them any expense, either in construction or future working. And it is further agreed that should the Government establish a dépôt or dépôts at any such point or points, the Company shall be allowed the use of such dépôt or dépôts, and the tracks leading thereto,

on the same terms as the Intercolonial Railway is allowed the use of the tracks and depôt of the Company under this agreement.

15. That the Government are to have the right to have the business of the Intercolonial Railway in freight and passengers done in and about the stations, wharves and premises of the Company at Point Lévis and Quebec, respectively, including the booking of passengers and way-billing of freight, at such rates as the Superintendent of the Intercolonial Railway may, from time to time, supply, and also the use of the ferry arrangements of the Company; the whole to be done under the charge and supervision of the Company's servants, and the Government shall pay the Company for these services the actual cost thereof to the Company, such cost to include a fair proportion of the salary and wages paid to those performing the services; also to include a fair proportion of the cost to the Company of cartage, and of the other charges connected with the services in respect of which Intercolonial traffic forms part, including also a fair proportion of the rent of premises in Quebec, and the cost of ferriage and of the cost of shunting and making-up of trains, and of the cleaning of carriages, and all other charges proximately incidental to the same, but not to include any proportion of the cost to the Company of insurance, taxes, maintenance, repairs to the tracks, buildings, docks, wharves and other the property and appurtenances of the Company.

16. It is expressly agreed that the Company only undertake to supply accommodation for the business of the Intercolonial Railway in and upon their premises as they at present exist, and in conjunction with the work of their own traffic, but the business of the one party is not to have precedence over the business of the other. Should, however, the wharves or buildings of the Company, either at Point Lévis or Quebec, all or any of them, be at any time destroyed by fire, the Company is not to incur any liability to the Government in respect of accommodation which they may have to secure elsewhere during the reconstruction of such wharves or buildings, but such reconstruction shall be proceeded with with all reasonable despatch.

17. That the Government and the Company, respectively, shall furnish the one to the other standing room for cars and vehicles of all kinds in their sidings at Hadlow and Point Lévis respectively, to the extent to which they can do so without interruption to their own operations, but all shunting in and about the Hadlow station yard shall be done by the Intercolonial Railway and under the direction of the employees thereof, and the Grand Trunk Company shall pay to the Government for that service the actual cost thereof to the Government, such cost to include a fair proportion of the salaries and wages of those performing the work.

18. That in order to facilitate and to develop the business of the Intercolonial Railway and the Grand Trunk

Railway, every effort shall be made to cause close and suitable train connections to be made at Chaudière Junction, but the trains of neither party shall be unnecessarily delayed or impeded in passing over the railway between Chaudière Junction and Point Lévis; and the connecting trains of the Company shall be run with due expedition between the Chaudière Junction and Montreal.

19. That the Company are to be allowed to remove all their rolling-stock, stationery, books and papers, and are to be given free haulage to Chaudière Junction of cordwood or property or material of any kind which may not be taken by the Government. This applies to other property than the iron rails and fastenings which the Government are to deliver as above provided at Chaudière Junction.

20. That the interchange of the traffic between the Company and the Intercolonial Railway, which may be made, shall be made at Chaudière Junction.

21. That through rates and fares shall be agreed upon and made, from time to time, for traffic to and from all points on the Intercolonial Railway, including the Rivière du Loup Road, and all points on the Company's railway, including all lines leased by them, and such rates and fares shall, as regards traffic to and from all points on the Intercolonial between Moncton and Point Lévis, and to and from all points on the Grand Trunk Railway and leased lines, be divided on the basis of mileage, except where such division would act unfairly by reason of the one line of railway having a largely preponderating mileage, in which case the division of rates and fares shall be settled on a fair and equitable basis, by mutual agreement, and, in default of agreement, by arbitration, as hereinafter provided.

22. That in respect of all traffic to or from points between Moncton and St. John, and Moncton and Halifax, all inclusive, and places on the Grand Trunk Railway (and lines leased by the Company), the proportion of such through rates and fares accruing to the Company shall not be more per ton per mile, and per passenger per mile, than the rates and fares respectively simultaneously charged by the Company (*viâ* any route) upon the same descriptions or classes of traffic carried to or from the same places on their lines and St. John and Halifax respectively. In ascertaining such rates of freight, all drawbacks or deductions of every kind allowed are to be taken off before fixing such rates.

23. That as regards traffic shipped to and from Europe and the British Isles through Halifax or St. John, per Intercolonial, the rates of the Company for the carriage of such traffic from or to Chaudière Junction shall not be higher per passenger per mile, or per ton of freight per mile, than the amount per passenger per mile, and per ton of freight per mile, charged by the Company on similar classes or descriptions of traffic carried by them for others to or from the same places, and intended for or coming from the same places in

Europe and the British Isles. In ascertaining such rates of freight, all drawbacks or deductions of every kind allowed are to be taken off before fixing said rates.

24. That the rates per passenger and per ton of freight per mile on east-bound traffic are not to govern the rates per passenger and per ton of freight per mile on west-bound traffic, nor the rates between any two or more places the rates between all places to and from which traffic may be carried under the terms of this agreement, but the true intent and meaning of this and the two preceding clauses are that the Company shall not discriminate in the matter of rates against the traffic of the Intercolonial Railway.

25. That the Company shall not be responsible for the acts or defaults of servants of the Government, or for the efficiency or otherwise of the Government's machinery and appliances, and the Government shall not be responsible for the acts or defaults of the servants of the Company or for the efficiency or otherwise of the machinery and appliances of the Company.

26. That the forms of all through bills of lading, also the forms for receipts for goods passing over the whole or parts of the said lines, respectively, shall be such as shall, from time to time, be agreed upon by the officers of the parties hereto; or in default of agreement, settled by arbitration.

27. That in respect of traffic, whether passengers or freight, of the Intercolonial Railway, carried across the river by ferry employed to do the business of the Company, the Company shall not incur any liability arising from the dangers of navigation, but will place the traffic of the Intercolonial Railway in every respect on as favorable a footing as their own business, and will be responsible to the Government for the due performance of the obligations and undertakings of the contractor for the ferry service.

28. The Company for, and in consideration of, the said sum of one million and five hundred thousand dollars, to be paid by the Government of Canada to the said Grand Trunk Railway Company of Canada, their successors and assigns, in the manner and at the times in the above-recited agreement mentioned, by these presents do grant, bargain, sell, assign, transfer and surrender to Her Majesty, Her heirs and successors, for the said the Dominion of Canada, the said portion of the said Company's line of railway extending and as described above, together with all the property, rights, easements and privileges above mentioned, and as herein agreed to be given by the Company to the Government, reserving and stipulating for all the easements and rights in this agreement mentioned as those to be had, held and enjoyed by the Company over and upon, and in connection with the said property so sold and surrendered as aforesaid:

To have and to hold the same unto and to the use of Her said Majesty, Her heirs and successors, for the said Dominion of Canada for ever.

And the Grand Trunk Railway Company of Canada covenant with Her Majesty, that they have the right to convey the said property and every part thereof above sold and conveyed;

That they shall and will at any and at all times hereafter, make, do and execute any and all such further and other deeds, documents and writings whatsoever, which Her Majesty, Her heirs, and successors, may, from time to time, require for the better and further assuring and securing to Her Majesty, Her heirs and successors, the said property so sold, and every part thereof.

And it is also declared and agreed that these presents contain the agreement between Her Majesty and the said Company, made in pursuance of the said above in part recited Act, and show the terms and conditions of said sale and purchase.

29. That should any difference arise between the Government and the Company respecting the carrying out of any clause of this agreement, such difference shall, from time to time, as the same may arise, be referred to the award and determination of three arbitrators, one to be nominated by the Government, one by the Company, and the third by the two so nominated: Provided always, that if either party should, for one month after notice from the other that they have nominated an arbitrator, omit or refuse to nominate an arbitrator, or if the two nominated should omit or refuse to nominate the third, then the Chief Justice of the Supreme Court of Canada (or, in his absence, the senior Puisné Judge present in Ottawa) may, on the application of either party, upon notice to the other, nominate the required arbitrator.

In case of the death, resignation or refusal to act of any arbitrator, or if for any other cause the office of any arbitrator becomes vacant, his successor shall be nominated in the same manner as such arbitrator was nominated, unless the parties otherwise agree; and in case such successor be not, within one month after the happening of the vacancy, nominated by the party entitled to nominate him, then the said Chief Justice, or, in his absence, the said senior Puisné Judge may, on the application of either party, nominate such successor. The arbitrators shall, within one month after the last appointment, proceed to determine the matters referred, and they, or a majority of them, shall make and publish their award in writing within one month after the closing of the hearing of the arbitration: Provided always, that any of the judges of the Supreme Court of Canada may, on the application of either party, upon notice to the other, either before or after the expiration of such one month, or of any extended time, from time to time, extend the time for making such award. The award of the said arbitrators, or a majority of them, shall be final.

30. Nothing herein contained shall, in any way, merge or affect the claim and rights of the Government as they now exist against the Company and their property other than that which is the subject matter of this agreement.

In witness whereof these presents (in quadruplicate) have been signed by the Honorable the Acting Minister of Railways and Canals, pursuant to Order in Council, and the seal of the said Department has been hereto affixed, and the Company have hereto fixed their corporate seal, and these presents have been signed by the General Manager, the day and year first above written.

In presence of, witness to the execution by the Grand Trunk Railway Company. (Signed) R. WIGHT.	} (Signed) The Grand Trunk Railway Company of Canada, By J. HICKSON, General Manager. [Seal.]
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Witness to execution by the Acting Minister of Railways and Canals and by the Act- ing Secretary. (Signed) H. A. FISSIAULT.	} (Signed) J. H. POPE, Acting Minister of Railways and Canals. (Signed) F. H. ENNIS, Acting Secretary. [Seal.]
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OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most
Excellent Majesty.



43 VIC., CHAP. 9.

An Act to amend the Act respecting Joint Stock Companies to construct works to facilitate the transmission of Timber down Rivers and Streams.

[Assented to 29th April, 1880.]

Preamble.
C.S.C., c. 68.

WHEREAS it is expedient to amend the Act being chapter sixty-eight of the Consolidated Statutes of the late Province of Canada, intituled, "*An Act respecting Joint Stock Companies to construct works to facilitate the transmission of Timber down Rivers and Streams:*" Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Section 59 repealed; new provision.
Proportionate rates of toll.

1. Section fifty-nine of the said Act is hereby repealed and the following substituted therefor:—

"59. The tolls to be collected upon different kinds of timber shall bear to each other the following proportions, viz.:

Red and White Pine, Tamarac, Spruce and Hemlock, square.....	per piece	1	ct.
Oak, Elm and other hard wood, square or flatted.....		1½	"
Spars.....		3	"
Masts.....		.5	"
Saw-logs, 17 ft. and under.....		¼	"
Red and White Pine, Tamarac, Spruce, and Hemlock, round or flatted, over 17 ft. and under 25 ft. long.....		⅓	"
do do 25 to 35 ft long....		⅕	"
do do 35 ft and upwards in length.....		⅔	"
Sawed lumber, per 1,000 ft. board measure.....		3	"
Staves, per 1,000.....		15	"
Firewood, shingle and other lumber, per cord....		2	"

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43 VIC., CHAP. 15.

An Act to confirm a certain Order of the Governor in Council respecting the Graving Dock at Esquimalt.

[Assented to 7th May, 1880.]

WHEREAS by the twelfth section of the terms of Union between the Dominion and the Province of British Columbia, it was agreed that the Dominion Government should guarantee the interest for ten years from the date of the completion of the works at the rate of five per centum per annum on such sum not exceeding one hundred thousand pounds sterling, as might be required for the construction of a first-class graving dock at Esquimalt; and by an Act passed in the the thirty-seventh year of Her Majesty's reign, chaptered seventeen, advances were authorized to be made by the Governor General in Council to the Province of British Columbia out of the Consolidated Revenue Fund, for the construction of such graving dock, upon certificates of the progress of the work, to an extent not to exceed in the whole the sum of two hundred and fifty thousand dollars, in lieu of the aforesaid guarantee of interest; and whereas an Order of His Excellency the Governor General in Council was passed on the thirteenth of November, one thousand eight hundred and seventy-nine, defining the conditions upon which the aforesaid advances should be made, but was not acted upon; and on the twelfth of February, one thousand eight hundred and eighty, an order of His Excellency the Governor General in Council was passed on a report of the Minister of Finance, dated on the eleventh of February, one thousand eight hundred and eighty, of which Order and report copies are contained in the schedule hereunto attached, and it is expedient that the same be formally approved and confirmed by Parliament: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.
Terms of
union with
British
Columbia
cited.

Advances
made.

Order in
Council
founded on.

Report of
Minister of
Finance in
February,
1880.

1. The Order in Council mentioned in the preamble, and the report of the Minister of Finance therein referred to and approved, and the provisions and conditions respecting the construction of the said graving dock at Esquimalt, set forth in the said report, are hereby declared to be approved, sanctioned and confirmed by the Parliament of Canada.

Order in
Council
confirmed.

SCHEDULE.

COPY OF A REPORT OF A COMMITTEE OF THE HONORABLE THE PRIVY COUNCIL, APPROVED BY HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL, ON THE 12TH FEBRUARY, 1880.

On a report, dated 11th February, 1880, from the Honorable the Minister of Finance, stating that he has had under consideration despatches received from the Lieutenant Governor of British Columbia, on the subject of the advances proposed to be made by the Dominion Government for the construction of a graving dock at Esquimalt, and that in order to arrive at a settlement of the question, he has had several interviews with the Honorable the Attorney General of the Province, who has been deputed to confer with the Dominion Government in connection with the same subject.

The Minister states that he has given the subject his most careful consideration, and that, in his opinion, it is desirable to modify the Order in Council of the thirteenth November last, and to substitute one in accordance with certain provisions and conditions set forth in his report, hereto attached;

The Committee recommend that said report be approved and acted on, and that copies of this minute be transmitted to the Right Honorable the Secretary of State for the Colonies and to the Lieutenant Governor of British Columbia.

Certified.

J. O. COTÉ,

Clerk, Privy Council.

The undersigned has the honor to report that he has had under consideration despatches received from the Lieutenant Governor of British Columbia, on the subject of advances proposed to be made by the Dominion Government for the construction of a graving dock at Esquimalt, and that in order to arrive at a settlement of the question, he has had several interviews with the Honorable the Attorney General of the Province, who has been deputed to confer with the Dominion Government in connection with the same subject.

The undersigned has given the subject his most careful consideration, and now begs leave to state that, in his opinion, it is desirable to modify the Order in Council of the thirteenth November last, and to substitute one in accordance with the following provisions and conditions:—

Firstly. The Honorable Attorney General having stated that the plans and specifications of the dock prepared by Messrs. Kinnipple and Morris, of London, England, have been left for inspection with the Department of Public Works, and are those upon which tenders have been

invited, the undersigned recommends that advances be made to the Province as the work progresses, to an extent not to exceed in the whole the sum of two hundred and fifty thousand dollars,—such advances not to include the value of any material or plant already obtained by the Provincial Government for the purposes of the graving dock.

Secondly. That such advances be made on the certificate of the engineer of the Provincial Government, countersigned by the agent of the Dominion Government in British Columbia.

Thirdly. That in case the Government of British Columbia should fail, from any cause, to proceed actively with the construction of the work for a period of three months after the receipt of a written request from the Dominion Government to prosecute the same, then that the latter shall have the right to enter upon and take possession of the works and premises, and complete the same.

Fourthly. That in case of such entry, the Canadian Government shall be entitled to claim and receive from the Imperial Government the promised grant in aid of fifty thousand pounds sterling, or any increase of such grant. It is understood that if any balance of such grant in aid should remain unexpended after defraying the outlay made by the Dominion Government in consequence of the failure, as aforesaid, of the Province, such balance shall be paid to the said Province, while, on the other hand, if the said grant in aid should prove insufficient to complete the works, the amount of the deficiency shall be placed to the debit of the debt account of the Province. It is further understood that the right of property in the dock shall, subject to the temporary right of possession, as before mentioned, remain in the Government of British Columbia.

Fifthly. That the Imperial Government shall be made a party to this arrangement, and its approval obtained.

Sixthly. That the sanction of the Legislature of British Columbia be also obtained to this agreement.

Seventhly. That, subject to the foregoing conditions, the advances so made of two hundred and fifty thousand dollars shall not bear interest, and shall be considered as a grant of money in lieu of the twelfth article of the terms of Union between Canada and British Columbia.

All which is respectfully submitted.

(Signed,) S. L. TILLEY,
Minister of Finance.

FINANCE DEPARTMENT,
February 11th, 1880.



43 VIC., CHAP. 16.

An Act to ratify and confirm a certain agreement therein mentioned between the Government of Canada and the Canada Central Railway Company.

[Assented to 7th May, 1880.]

Preamble.
Order in
Council, 18th
April, 1878,
under 37 V.,
c. 14.

Resolution
of House of
Commons.

Effect of
Order recited.

Election of
option by
company.

And agree-
ment with
Her Majesty.

The agree-
ment.

WHEREAS by an Order of His Excellency the Governor General in Council, dated the eighteenth day of April, one thousand eight hundred and seventy-eight, passed under the authority of the Act thirty-seventh Victoria (1874), chapter fourteen, intituled, "*An Act to provide for the construction of the Canadian Pacific Railway*," and ratified by a resolution of the House of Commons of Canada on the seventh day of May, one thousand eight hundred and seventy-eight, it is in effect provided,—that the Canada Central Railway Company are to be entitled to receive from the Government of Canada a subsidy or bonus of twelve thousand dollars per mile, upon the extension of their line westward to such point as may be selected by the Government as the terminus of the Canadian Pacific Railway, near Lake Nipissing,—such subsidy to be payable upon the terms and in the manner set out in such Order in Council; and by such Order it is further provided that the Company are to have the option of substituting the payment by the Government of the interest, or part of the interest, on bonds of the Company running over such terms of years as might be approved by the Governor in Council in lieu of the mileage subsidy referred to :

And whereas the Company elected to avail themselves of this option, and the Government assumed the payment of the interest (but only until the maturity of the principal), on an issue of bonds made by the Company, amounting in all to five hundred thousand pounds sterling, payable in twenty years from the first day of September, in the year of our Lord one thousand eight hundred and seventy-nine, with interest half-yearly at the rate of five per cent. per annum :

And whereas the Company, upon the Government so assuming the payment of such interest, entered into the following agreement with Her Majesty, that is to say:—

"This Indenture, made the third day of October, in the year of our Lord one thousand eight hundred and seventy-nine, between the Canada Central Railway Company, here-

inafter called "the Company," of the first part, and Her Majesty the Queen, represented herein by the Honorable the Minister of Finance of Canada, of the second part :—

"Whereas by an Order of His Excellency the Governor General of Canada in Council, dated eighteenth of April, one thousand eight hundred and seventy-eight, passed under the authority of the Act thirty-seven Victoria (eighteen hundred and seventy-four), chapter fourteen, intituled, "*An Act to provide for the construction of the Canadian Pacific Railway.*" and ratified by a resolution of the House of Commons of Canada, on the seventh day of May, one thousand eight hundred and seventy-eight, it is in effect provided, that the Company are to be entitled to receive from the Government of Canada the subsidy or bonus of twelve thousand dollars per mile, upon the extension of their line westward, to such point as may be selected by the Government as the terminus of the Canadian Pacific Railway near Lake Nipissing, such subsidy to be payable upon the terms and in the manner set out in such Order in Council ; and by such Order it is further provided that the Company are to have the option of substituting the payment by the Government of the interest, or part of the interest, on bonds of the Company running over such terms of years as might be approved by the Governor in Council, in lieu of the mileage subsidy referred to :

"And whereas the Company have elected to avail themselves of such option, and the Government have agreed to assume the payment of the interest (but only until the maturity of the principal), on an issue of bonds made by the Company amounting in all to five hundred thousand pounds sterling, or thereabouts, payable in twenty years, upon the condition, among other things, that the sum of one million five hundred and twenty-seven thousand and eighty-five dollars and fifty cents in cash be deposited by the Company with the Government, to be held as security for the due completion of their line, subject to the terms hereinafter contained ; and also upon the conditions that the Company comply with the terms and conditions of the said Order in Council of the eighteenth April, one thousand eight hundred and seventy-eight, and enter into the other agreements in these presents :—

"Now this Indenture witnesseth that the Company covenant and agree with Her Majesty, Her successors and assigns, that they will grant running powers, on terms to be approved by the Governor General in Council, to the Quebec, Montreal, Ottawa and Occidental Railway, or any railway in extension thereof, from any point of intersection west of the town of Renfrew that may be approved of by the Governor General in Council, and also to the Kingston and Pembroke Railway Company, from the point of intersection of their line, provided such point of intersection is at or west of Renfrew, and to such other companies as may have the termini of

their systems on or towards Lake Huron, and which may be designated by the Governor General in Council as entitled to such running powers :

“ Provided, that the terms of such running powers to any of the said Companies or roads may be mutually agreed upon by the Canada Central Railway Company and the Quebec Government and the other Companies named, and in the event of disagreement, the conditions to be settled by arbitration, one arbitrator to be selected by each party, and one by the Governor in Council :

“ And that the Government of Canada or the lessees or the future owners of the Government line westward of the western terminus of the subsidized line, shall possess running powers on the said Company's railway, on similar terms to the Companies or roads above designated :

“ And the Company further covenant and agree with Her Majesty, Her successors and assigns, that the said sum of one million five hundred and twenty-seven thousand and eighty-five dollars and fifty cents deposited with the Government, is to be held as security for the due completion of the said extension of the Company's line, such sum to be returned to the Company from time to time upon similar terms, and in similar ways to those which are provided in the said Order in Council of the eighteenth April, one thousand eight hundred and seventy-eight, with respect to the payment of the cash mileage bonus, or subsidy, under the first alternative of such Order ; but if default be made in the completion of the said extension, in accordance with the terms of the contract or contracts under which the same is now being built, such sum, or any balance which may remain, to be retained by the Government and used for the purpose of recouping the Government for any moneys which they may be liable to pay for interest accruing upon the said bonds, after the happening of such default, over and above the amount which the Company would have been then entitled to receive, had they availed themselves of the first alternative of the Order in Council of the eighteenth April, one thousand eight hundred and seventy-eight :

“ And the Company further covenant and agree with Her Majesty, Her successors and assigns, that they will, from time to time, as the interest upon the said bonds matures, pay to the bankers, brokers or other persons who may be employed in connection with the payment of such interest, all commissions, costs, charges and expenses connected therewith ; and it is hereby declared that the amount required to remit the said half-yearly coupons for twenty years has been computed at the par of exchange, which rate has been agreed upon as the rate governing all transactions in connection herewith ; also, that they will, from time to time, indemnify and save harmless Her Majesty and the Government of Canada from all losses (if any) which may arise, or be caused by, or by reason of the bankruptcy, dishonesty,

misfeasance or malfeasance of those to whom the money to meet such interest may be entrusted, or of their clerks, servants or agents, or by reason of any felony or misdemeanor, or of any accident in respect of such money after the same may have been placed in the hands of those employed to pay such interest, or by reason of any other cause whatever after the money to meet such interest may have been placed in the hands of those employed to pay the same :

"In witness whereof the Company have caused their corporate seal to be hereto affixed, and these presents to be countersigned by their president and Secretary, and the Minister of Finance has hereto set his hand and seal, the day and year first above written (in triplicate),

(Signed) S. L. TILLEY, [Seal.]
Minister of Finance of Canada.

Signed, sealed and delivered in presence of

(Signed) Z. A. LASH,

Deputy Minister of Justice, as to execution by Minister of Finance.

(Countersigned) JOHN G. RICHARDSON, [Seal.]
President C. C. Railway Company.

(Countersigned) ARCHER BAKER, [Seal.]
Secretary C. C. Railway Company.

"And countersigned, sealed, delivered and executed by John Grahame Richardson, the president, and Archer Baker, the secretary of the Canada Central Railway Company, on behalf of the said Company, and with its corporate seal, in the presence of

(Signed) C. F. FRASER."

And whereas the total interest on the said issue of bonds so assumed by the Government, slightly exceeds the amount of interest which can be provided for out of the said cash subsidy of twelve thousand dollars per mile ; and it is expedient to ratify and confirm the assumption by the Government of the payment of the said interest, and to carry out the arrangement contemplated by the parties :—

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. If or so soon as the company have returned to the Government the sums received by them in cash, prior to the date of the indenture above set out, on account of the bonus or subsidy above mentioned ; and—

Agreement confirmed, subject to certain conditions.

2. Have deposited with the Government to be held as security for the due completion of their line, subject to the terms of the said indenture, a sum equal to the amount which remained unpaid of the said loans or subsidy on the date of the said indenture ; and—

3. Have deposited with the Government a sum sufficient to provide for the payment of so much of the interest on the said bonds as exceeds the amount of such interest which can be provided for out of the said cash bonus or subsidy of twelve thousand dollars per mile ; then the assumption by the Government of the payment of the said interest is approved and confirmed.

How certain sums shall be paid, dealt with and credited.

2. The sum firstly mentioned in the preceding section shall be returned to the Consolidated Revenue Fund of Canada and credited to the account out of which it was originally paid ; the sum secondly mentioned in the said section shall be held as security and dealt with according to the term of the indenture above set out, and the sum thirdly mentioned in the said section shall be paid into the Consolidated Revenue Fund of Canada and credited to the account out of which the moneys to meet the interest on the said bonds is to be taken.

Payment of interest of bonds of company.

3. The interest on the said bonds, as the same matures, may be paid out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada and charged to the Canadian Pacific Railway capital account.

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43 VIC., CHAP. 17.

An Act to authorize the raising of a further sum to enable the Quebec Harbor Commissioners to complete their Tidal Dock.

[Assented to 7th May, 1880.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. In addition to the sum authorized by the Act passed in the thirty-sixth year of Her Majesty's reign, chaptered sixty-two, and intituled, "*An Act further to amend the Acts to provide for the management and improvement of the Harbor of Quebec*," to be raised in the manner therein mentioned, for the relief of the Quebec Harbor Commissioners and the improvement of the said harbor, it shall be lawful for the Governor in Council to raise, by the issue of debentures bearing interest payable half-yearly at a rate not exceeding five per cent. per annum, a further sum of two hundred and fifty thousand dollars.

A further sum of \$250,000 may be raised by Governor in Council, in addition to that raised under 26 V., c. 62.

2. The sum so raised may be advanced from time to time to the said Commissioners to enable them to complete their tidal dock, now under contract in the said harbor, according to the plan approved by the Minister of Public Works, in November, one thousand eight hundred and seventy-five.

And advanced for completion of tidal dock at Quebec.

3. The repayment by the Commissioners of the sums so advanced shall be provided for in the manner prescribed by the Act above cited for the repayment of the sums advanced to the Commissioners under it, and subject to the provisions of the said Act in that behalf.

Repayment by commissioners of sums advanced.

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43 VIC., CHAP. 31.

An Act to amend the Acts respecting the Trinity House
and Harbor Commissioners of Montreal.

[Assented to 7th May, 1880.]

Preamble.

WHEREAS it is expedient to make further provision in respect of the powers of the Harbor Commissioners of Montreal, as the Pilotage Authority of the Pilotage District of Montreal: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Quorum
reduced.

1. The quorum of the Harbor Commissioners of Montreal, when sitting in their capacity of Pilotage Authority, is hereby reduced to three of the said Commissioners.

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43 VIC., CHAP. 32.

An Act to enable the Harbor Commissioners of Montreal to pay a life annuity to the Widow of the late Honorable John Young.

[Assented to 7th May, 1880.]

WHEREAS in consideration of the services of the late Preamble.
Honorab! John Young, as chairman and member of the Corporation of the Harbor Commissioners of Montreal, for a period of nearly twelve years, in the course of which improvements in the navigation of the River St. Lawrence of the greatest importance to the commerce of the Dominion were effected under his superintendence and by his unwearied exertions, made gratuitously during more than nine years, it is expedient to give effect to the unanimous wish expressed by the present Commissioners to mark their high esteem of Mr. Young's worth and services in the manner hereinafter provided: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Harbor Commissioners of Montreal shall pay out of the funds of the corporation to Mrs. Young, widow of the said late Honorable John Young, during her life, an annuity equal to the yearly interest at six percent. per annum of the sum of ten thousand dollars, to be reckoned and paid as from the time of Mr. Young's decease, the arrears thereof being payable on and up to the first day of July next, and the annuity to be paid thereafter by quarterly payments of one hundred and fifty dollars each, on the first day of October, January, April and July in each year. Annuity to Mrs. Young to be paid out of Harbor funds, &c.

2. The due application of moneys paid by the said Commissioners under this Act, shall be accounted for in the manner provided by law with respect to other moneys expended by them. Accounting clause.



43 VIC., CHAP. 33.

An Act further to amend "*An Act respecting the Harbor of Pictou, in Nova Scotia.*"

[Assented to 7th May, 1880.]

Preamble.
36 V., c. 63.

IN further amendment of the Act passed in the thirty-sixth year of Her Majesty's reign, and intituled, "*An Act respecting the Harbor of Pictou, in Nova Scotia*": Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Section 3
repealed.

Harbor com-
missioners to
appoint the
Harbor
Master.

Proviso: as
to present
incumbent.

1. Upon, from and after the first day of July next after the passing of this Act, the third section of the said Act shall be repealed, and on or after the said day the Commissioners, appointed under the second section of the said Act to have the superintendence of the harbor and harbor master of the said port, may, from time to time, appoint a fit and proper person to be harbor master of the said port of Pictou under the said Act,—all the provisions of which respecting the harbor master shall apply to the harbor master so appointed: Provided, that the harbor master appointed under the repealed section shall continue to hold office, unless removed by the Commissioners, as he may be if they see fit.

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43 VIC., CHAP. 43.

An Act for the relief of Permanent Building Societies
and Loan Companies.

[Assented to 7th May, 1880.]

WHEREAS, acting under the authority of the Act passed Preamble, 37 V., c. 50.
in the thirty-seventh year of Her Majesty's reign, chapter fifty, intituled, "*An Act to make further provision for the management of Permanent Building Societies carrying on business in the Province of Ontario*," the Minister of Finance has, from time to time, furnished to building, loan or savings societies or companies in Ontario, on their application, printed forms purporting to be forms of statement in accordance with the provisions of the said Act in that behalf; and whereas, on account of some difference in the language used in the said forms as compared with the language of the said Act, and by reason of affidavits not having been made verifying such statements, doubts have arisen as to whether returns made upon the said forms are a compliance with the said Act, and it is desirable to remove such doubts and to relieve societies whose officers have made their returns upon the said forms from being harassed by suits for penalties under the said Act, and also to further amend the said Act above cited: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

I. Every statement transmitted to the Minister of Finance, at any time previous to the passing of this Act, by any building, loan or savings society or company incorporated under chapter fifty-three of the Consolidated Statutes of Upper Canada, or any Act thereby consolidated, or otherwise incorporated, which statement purports to have been filled up according to the said printed forms, or otherwise in substantial compliance with the provisions hereinafter mentioned, whether the same has or has not been attested by oath or affirmation, shall be deemed and taken to be, and to have been, a sufficient statement, and in compliance in all respects with the provisions of the nineteenth section of the said Act, intituled, "*An Act to make further provision for the management of Permanent Building Societies carrying on business in the Province of Ontario*," or of the said section as amended by the third section of the Act passed in the

Certain statements transmitted to Minister of Finance to be deemed sufficient under sec. 19 of 37 V., 50, as amended by 40 V., c. 49.

Societies
which trans-
mitted them
indemnified.

fortieth year of Her Majesty's reign, chapter forty-nine, as the case may be, and to have been properly made, filled up and attested according to the provisions of the said Acts, whether such statements were attested or not, or whether or not the said statement or the affidavit verifying the same was transmitted in due time to the said Finance Minister; and every society or company incorporated as aforesaid, the officers of which shall have transmitted such statement, shall be and is hereby indemnified, exonerated, freed and discharged of and from all pecuniary penalties and forfeitures whatsoever, if any, which may have been incurred by such company or society by reason of its having neglected to transmit any other, or further, or differently attested statement, or to perform the obligations imposed on it by the said Acts or any of them in that behalf.

As to actions
for penalties
commenced
after or before
the passing of
this Act.

2. In case any action, suit or proceedings shall, after the passing of this Act, be brought, carried on or prosecuted against any society or company for or on account of any pecuniary penalty or forfeiture whatever incurred or to be incurred by any such neglect, as is intended to be relieved against by this Act, such society or company may plead the general issue, and upon their defence give this Act and the special matter in evidence upon any trial to be had thereupon; and in any action or suit commenced before the passing of this Act or now pending against any society or company for or on account of any such neglect, the court or judge thereof shall, on the application of the defendant, order all proceedings in such action or suit to be stayed on payment of the costs thereof to the plaintiff therein, but in default of such application the plaintiff may prosecute such action or suit to judgment.

Stay of pro-
ceedings in
suits com-
menced.

Effect on such
actions of
subsequent
receipt by the
Minister of a
sufficient
statement.

3. No action brought after the passing of this Act against any society or company incorporated as aforesaid for any past or future failure to comply with the provisions of the said Act, or of the said Act as amended as aforesaid, as the case may be, shall be maintained, if such action was or is commenced at any time subsequent to the receipt by the Minister of Finance of the statement required by the said Act, or of the statement, whether attested as aforesaid or not, declared valid by this Act, unless such action is brought by the Crown or by the Minister of Justice suing on behalf of the Crown.

Exception.

Statement not
required in
case society
has ceased to
do business or
has never
done any.

4. The provisions of the said nineteenth section of the said Act intituled, "*An Act to make further provision for the management of Permanent Building Societies carrying on business in the Province of Ontario*," shall not, nor shall those of the said section as amended as aforesaid, be held to apply, or to have applied, to any society or company which has ceased or shall have ceased to carry on business prior

to the year for which the return is or was required, nor to any society or company which though incorporated, never carried on business; and upon its being proved that any society or company incorporated as aforesaid did not lend any money, or receive any deposit, or issue any debenture during the year for which it is alleged a return in accordance with such section, or with such section as amended as aforesaid, has not been made, such society or company shall be deemed to have ceased to carry on business within the meaning of this section.

Proof of having done no business.

5. The nineteenth section of the said Act passed in the thirty-seventh year of Her Majesty's reign, chaptered fifty, as amended by the third section of the said Act, passed in the fortieth year of Her Majesty's reign, chaptered forty-nine, and the said last mentioned section, are hereby repealed, and the following substituted therefor:—

Section 19 of 37 V., c. 50, as amended by sec. 3 of 40 V., c. 49, repealed, and a new section substituted.

“19. Such society shall, on or before the first day of March in each year, transmit to the Minister of Finance a full and clear statement of the society's assets and liabilities on some day to be stated therein; and such day shall not be more than twelve months prior to the said first day of March, or earlier than the end of the last preceding financial year of such society; and such statement shall contain, in addition to such other particulars as the Minister of Finance may require, the following:—

Annual statement to be transmitted to Minister of Finance.

“(a.) The amount of stock subscribed;
“(b.) The amount paid in upon such stock;
“(c.) The amount borrowed for the purposes of investment and the securities given therefor;

What such statement must contain.

“(d.) The amount invested and secured by mortgage deeds;

“(e.) Amount of mortgages payable by instalments;

“(f.) The number and aggregate amount of mortgages upon which compulsory proceedings have been taken during the past year; and also the value of mortgaged property held for sale, and the amount chargeable against it;

Particulars as to mortgages.

“(g.) The present cash value of the society's investments on mortgages and other securities, and the rate or rates per cent. at which the future repayments are discounted in ascertaining such present cash value; which rate or rates shall be at least equal to the rate or rates which such mortgages or other securities respectively bear, or were originally calculated to yield:

Cash value of investments and how calculated.

“2. Such statement shall be attested by the oath (taken before some justice of the peace, or commissioner for taking affidavits in the superior courts) of two persons, one being the president, vice-president, manager or secretary, and the other the manager, secretary, or auditor of such society, each of whom shall swear distinctly that he holds such office as aforesaid, that the statement has been prepared

To be attested on oath and by what officers.

And to be published by the Minister of Finance.

Penalty for non-transmission.

Proceedings by Minister of Finance under Order in Council in certain cases of default to transmit statement.

"by the proper officers of the company, that the deponent believes that it has been prepared with due care, and that he believes it to be true in every particular; and such statement shall be published by the Minister of Finance in such manner as he thinks most conducive to the public good; and for any neglect to transmit such statement in due course of post, within five days after the day upon which the same should be transmitted, such society shall incur a penalty of fifty dollars per diem, but not exceeding in the whole one thousand dollars:

"3. If such statement is not transmitted within a month after the said first day of March, or if it appears by the statement that such society is not in a condition to justify its continuance in business with the powers theretofore possessed by such society, the Minister of Finance may, under the authority of, or by order of the Governor General in Council, by a notice in the *Canada Gazette*, declare the business of such society to have ceased, so far as regards borrowing money, and any other matters mentioned in the Order in Council and notice aforesaid."

Certain statements made in conformity with this Act or under the sections it repeals to be deemed sufficient.

6. Any statement heretofore made, or which may be hereafter made by any society or company with reference to a financial year of such society or company ending prior to the passing of this Act, shall be deemed sufficient if such return is made, either in accordance with the provisions of the said section nineteen hereinbefore repealed, or of the said section as amended as aforesaid, as the case may be, or in accordance with the provisions of this Act.

Extension of time for making statement, for want of sufficient time to examine it.

7. If any officer of a society or company, shall, when called upon to attest the statement required under this Act, find himself unable to make the required affidavit of attestation on account of his having doubts as to the correctness of the statement presented to him for attestation, and further time is needed in order to permit of an examination of the items making up such statement, then, upon application of such officer, or of any one on his behalf, or on behalf of the society or company, made at any time before the sixth day of March of the proper year, the Minister of Finance may enlarge the time for transmitting such statement to a day not later than the first day of May of such year,— and the day so fixed by the said Minister of Finance, shall thereupon become the day within five days of which the said statement, attested as required by this Act, shall be transmitted by such society or company to the Minister of Finance, under the like penalties, in case of omission to make the same within such time, as if such a day had been inserted in the nineteenth section of the said Act as amended by this Act in lieu of the first day of March: Provided, that the said enlargement of time shall not prevent proceedings being taken under the nineteenth

Proviso.

section of the said Act as amended hereby, if the Governor General in Council shall so order :

2. It shall be sufficient, if the statement required to be furnished on or before the first day of March, one thousand eight hundred and eighty, is transmitted to the Minister of Finance on or before the first day of May next following, with power to the said Minister of Finance, under the like circumstances, to enlarge such time to a day not later than the first day of June of such year.

As to statements due on 1st March, 1880.

8. The provisions contained in section five of this Act, from the figure 19 to the end thereof, and in section seven of this Act, shall apply to every investment, loan or savings society or company incorporated by Act of Parliament of Canada, and to every institution or corporation incorporated without the Dominion of Canada and lending and investing money in Canada, and to the officers in Canada of every such society or company, institution or corporation, and to the Minister of Finance with relation to every such society or company, institution or corporation ; and for that purpose the word "society" in the said sections shall mean also and include company, institution or corporation, as the case may require.

Application of provisions of sections 5 and 7 of this Act.

Interpretation.

9. The compliance by or on the part of any such society or company, institution or corporation and its officers with the said provisions, shall be deemed and taken to be a compliance with the provisions of any section of any Act requiring such society or company, institution or corporation to transmit to the Minister of Finance any annual statement or return of its affairs or of its assets and liabilities.

Compliance with this Act by officers to be deemed compliance by company, &c.



44 VIC., CHAP. 1.

An Act respecting the Canadian Pacific Railway.

[Assented to 15th February, 1881.]

Preamble.

WHEREAS by the terms and conditions of the admission of British Columbia into Union with the Dominion of Canada, the Government of the Dominion has assumed the obligation of causing a railway to be constructed, connecting the seaboard of British Columbia with the railway system of Canada ;

Preference of Parliament for construction by a company.

And whereas the Parliament of Canada has repeatedly declared a preference for the construction and operation of such railway by means of an incorporated Company aided by grants of money and land, rather than by the Government, and certain Statutes have been passed to enable that course to be followed, but the enactments therein contained have not been effectual for that purpose ;

Greater part still unconstructed.

And whereas certain sections of the said railway have been constructed by the Government, and others are in course of construction, but the greater portion of the main line thereof has not yet been commenced or placed under contract, and it is necessary for the development of the North-West Territory and for the preservation of the good faith of the Government in the performance of its obligations, that immediate steps should be taken to complete and operate the whole of the said railway ;

Contract entered into.

And whereas, in conformity with the expressed desire of Parliament, a contract has been entered into for the construction of the said portion of the main line of the said railway, and for the permanent working of the whole line thereof, which contract with the schedule annexed has been laid before Parliament for its approval and a copy thereof is appended hereto, and it is expedient to approve and ratify the said contract, and to make provision for the carrying out of the same :

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Contract approved.

1. The said contract, a copy of which with schedule annexed, is appended hereto, is hereby approved and ratified, and the Government is hereby authorized to perform and carry out the conditions thereof, according to their purport.

2. For the purpose of incorporating the persons mentioned in the said contract, and those who shall be associated with them in the undertaking, and of granting to them the powers necessary to enable them to carry out the said contract according to the terms thereof, the Governor may grant to them in conformity with the said contract, under the corporate name of the Canadian Pacific Railway Company, a charter conferring upon them the franchises, privileges, and powers embodied in the schedule to the said contract and to this Act appended, and such charter, being published in the *Canada Gazette*, with any Order or Orders in Council relating to it, shall have force and effect as if it were an Act of the Parliament of Canada, and shall be held to be an Act of incorporation within the meaning of the said contract.

Charter may be granted.

Publication and effect of charter.

3. Upon the organization of the said Company, and the deposit by them, with the Government, of one million dollars in cash or securities approved by the Government, for the purpose in the said contract provided, and in consideration of the completion and perpetual and efficient operation of the railway by the said Company, as stipulated in the said contract, the Government may grant to the Company a subsidy of twenty-five million dollars in money, and twenty-five million acres of land, to be paid and conveyed to the Company in the manner and proportions, and upon the terms and conditions agreed upon in the said contract, and may also grant to the Company the land for right of way, stations and other purposes, and such other privileges as are provided for in the said contract. And in lieu of the payment of the said money subsidy direct to the Company, the Government may convert the same, and any interest accruing thereon, into a fund for the payment to the extent of such fund, of interest on the bonds of the Company, and may pay such interest accordingly; the whole in manner and form as provided for in the said contract.

Certain grants of money and land may be made to the company chartered.

Conversion of money grant authorized.

4. The Government may also permit the admission free of duty, of all steel rails, fish plates and other fastenings, spikes, bolts and nuts, wire, timber and all material for bridges to be used in the original construction of the said Canadian Pacific Railway, as defined by the Act thirty-seventh Victoria, chapter fourteen, and of a telegraph line in connection therewith, and all telegraphic apparatus required for the first equipment of such telegraph line, the whole as provided by the tenth section of the said contract.

Certain materials may be admitted free of duty.

5. Pending the completion of the eastern and central sections of the said railway as described in the said contract, the Government may also transfer to the said Company the possession and right to work and run the several portions of the Canadian Pacific Railway as described in the said Act

Company to have possession of completed portions of the railway.

Conveyance thereof to company when the contract is performed.

thirty-seventh Victoria, chapter fourteen, which are already constructed, and as the same shall be hereafter completed; and upon the completion of the said eastern and central sections the Government may convey to the Company, with a suitable number of station buildings, and with water service (but without equipment), those portions of the Canadian Pacific Railway constructed, or agreed by the said contract to be constructed by the Government, which shall then be completed; and upon completion of the remainder of the portion of the said railway to be constructed by the Government, that portion also may be conveyed by the Government to the Company, and the Canadian Pacific Railway defined as aforesaid shall become and be thereafter the absolute property of the Company; the whole, however, upon the terms and conditions, and subject to the restrictions and limitations contained in the said contract.

Security may be taken for operation of the railway.

6. The Government shall also take security for the continuous operation of the said railway during the ten years next subsequent to the completion thereof in the manner provided by the said contract.

SCHEDULE.

THIS CONTRACT AND AGREEMENT MADE BETWEEN HER MAJESTY THE QUEEN, acting in respect of the Dominion of Canada, and herein represented and acting by the Honorable SIR CHARLES TUPPER, K.C.M.G., Minister of Railways and Canals, and George Stephen and Duncan McIntyre, of Montreal, in Canada, John S. Kennedy of New York, in the State of New York, Richard B. Angus and James J. Hill, of St. Paul, in the State of Minnesota, Morton, Rose & Co., of London, England, and Kohn, Reinach & Co., of Paris, France.

Witnesses :

That the parties hereto have contracted and agreed with each other as follows, namely :—

Interpretation clause.

Eastern section.

Lake Superior section.

Central section.

1. For the better interpretation of this contract, it is hereby declared that the portion of railway hereinafter called the eastern section, shall comprise that part of the Canadian Pacific Railway to be constructed, extending from the Western terminus of the Canada Central Railway, near the east end of Lake Nipissing, known as Callander Station, to a point of junction with that portion of the said Canadian Pacific Railway now in course of construction extending from Lake Superior to Selkirk on the east side of Red River, which latter portion is hereinafter called the Lake Superior section. That the portion of said railway, now partially in course of construction, extending from Selkirk

to Kamloops, is hereinafter called the central section; and the portion of said railway now in course of construction, extending from Kamloops to Port Moody, is hereinafter called the western section. And that the words "the Canadian Pacific Railway," are intended to mean the entire railway, as described in the Act 37th Victoria, chap. 14. The individual parties hereto, are hereinafter described as the Company; and the Government of Canada is hereinafter called the Government.

2. The contractors immediately after the organization of the said Company, shall deposit with the Government \$1,000,000 in cash or approved securities, as a security for the construction of the railway hereby contracted for. The Government shall pay to the Company interest on the cash deposited at the rate of four per cent. per annum, half-yearly, and shall pay over to the Company the interest received upon securities deposited,—the whole until default in the performance of the conditions hereof, or until the repayment of the deposit; and shall return the deposit to the Company on the completion of the railway, according to the terms hereof, with any interest accrued thereon.

3. The Company shall lay out, construct and equip the said eastern section, and the said central section of a uniform gauge of 4 feet 8½ inches; and in order to establish an approximate standard whereby the quality and the character of the railway and of the materials used in the construction thereof, and of the equipment thereof may be regulated, the Union Pacific Railway of the United States as the same was when first constructed, is hereby selected and fixed as such standard. And if the Government and the Company should be unable to agree as to whether or not any work done or materials furnished under this contract are in fair conformity with such standard, or as to any other question of fact, excluding questions of law, the subject of disagreement shall be, from time to time, referred to the determination of three referees, one of whom shall be chosen by the Government, one by the Company, and one by the two referees so chosen, and such referees shall decide as to the party by whom the expense of such reference shall be defrayed. And if such two referees should be unable to agree upon a third referee, he shall be appointed at the instance of either party hereto, after notice to the other, by the Chief Justice of the Supreme Court of Canada. And the decision of such referees, or of the majority of them, shall be final.

4. The work of construction shall be commenced at the eastern extremity of the eastern section not later than the first day of July next, and the work upon the central section shall be commenced by the Company at such point towards the eastern end thereof on the portion of the line now under construction as shall be found convenient and

C. P. Rail-
way.

Company.
Government.

Security to
be given by
the company.

Conditions
thereof.

Eastern and
central sec-
tions to be
constructed
by company
described.

Standard of
railway and
provision in
case of dis-
agreement as
to conformity
to it.

Commence-
ment and re-
gular pro-
gress of the
work.

as shall be approved by the Government, at a date not later than the 1st May next. And the work upon the eastern and central sections shall be vigorously and continuously carried on at such rate of annual progress on each section as shall enable the Company to complete and equip the same and each of them, in running order, on or before the first day of May, 1891, by which date the Company hereby agree to complete and equip the said sections in conformity with this contract, unless prevented by the act of God, the Queen's enemies, intestine disturbances, epidemics, floods, or other causes beyond the control of the Company. And in case of the interruption or obstruction of the work of construction from any of the said causes, the time fixed for the completion of the railway shall be extended for a corresponding period.

Period for completion,

As to portion of central section made by Government.

5. The Company shall pay to the Government the cost, according to the contract, of the portion of railway, 100 miles in length, extending from the city of Winnipeg westward, up to the time at which the work was taken out of the hands of the contractor and the expenses since incurred by the Government in the work of construction, but shall have the right to assume the said work at any time and complete the same, paying the cost of construction as aforesaid, so far as the same shall then have been incurred by the Government.

Government to construct portions now under contract within periods fixed by contract.

6. Unless prevented by the act of God, the Queen's enemies, intestine disturbances, epidemics, floods or other causes beyond the control of the Government, the Government shall cause to be completed the said Lake Superior section, by the dates fixed by the existing contracts for the construction thereof; and shall also cause to be completed the portion of the said western section now under contract, namely, from Kamloops to Yale, within the period fixed by the contracts therefor, namely, by the thirtieth day of June, 1885; and shall also cause to be completed on or before the first day of May, 1891, the remaining portion of the said western section lying between Yale and Port Moody, which shall be constructed of equally good quality in every respect with the standard hereby created for the portion hereby contracted for. And the said Lake Superior section, and the portions of the said western section now under contract, shall be completed as nearly as practicable according to the specifications and conditions of the contracts therefor, except in so far as the same have been modified by the Government prior to this contract.

Completed railway to be property of company.

7. The railway constructed under the terms hereof shall be the property of the Company: and pending the completion of the eastern and central sections, the Government shall transfer to the Company the possession and right to work and run the several portions of the Canadian Pacific Railway already constructed or as the same shall be completed. And upon the completion of the eastern and central

sections, the Government shall convey to the Company, with a suitable number of station buildings and with water service (but without equipment), those portions of the Canadian Pacific Railway constructed or to be constructed by the Government which shall then be completed ; and upon completion of the remainder of the portion of railway to be constructed by the Government, that portion shall also be conveyed to the Company ; and the Canadian Pacific Railway shall become and be thereafter the absolute property of the Company. And the Company shall thereafter and forever efficiently maintain, work and run the Canadian Pacific Railway.

Transfer of portions constructed by Government.

Company to operate the railway for ever.

8. Upon the reception from the Government of the possession of each of the respective portions of the Canadian Pacific Railway, the Company shall equip the same in conformity with the standard herein established for the equipment of the sections hereby contracted for, and shall thereafter maintain and efficiently operate the same.

Company to equip portions transferred to them.

9. In consideration of the premises, the Government agree to grant to the Company a subsidy in money of \$25,000,000, and in land of 25,000,000 acres, for which subsidies the construction of the Canadian Pacific Railway shall be completed and the same shall be equipped, maintained and operated,—the said subsidies respectively to be paid and granted as the work of construction shall proceed, in manner and upon the conditions following, that is to say :—

Subsidy in money and land.

(a.) The said subsidy in money is hereby divided and appropriated as follows, namely :

Apportionment of money.

CENTRAL SECTION.

Assumed at 1,350 miles —		
1st.—900 miles, at \$10,000 per mile	\$ 9,000,000	
2nd.—450 " " 13,333 " "	6,000,000	
		<hr/> \$15,000,000

EASTERN SECTION.

Assumed at 650 miles, subsidy equal to \$15,384.61 per mile.....	10,000,000
	<hr/> \$25,000,000

And the said subsidy in land is hereby divided and appropriated as follows, subject to the reserve hereinafter provided for :—

And of land.

CENTRAL SECTION.

1st.—900 miles at 12,500 acres per mile.....	11,250,000
2nd.—450 " " 16,666.66 " "	7,500,000
	<hr/> 18,750,000

EASTERN SECTION.

Assumed at 650 miles, subsidy equal to 3,615 35 acres per mile	6,250,000
	<hr/> 25,000,000

(b.) Upon the construction of any portion of the railway hereby contracted for, not less than 20 miles in length, and the completion thereof so as to admit of the running of regular trains thereon together with such equipment thereof

When to be paid or granted.

Option of company to take terminable bonds.

as shall be required for the traffic thereon, the Government shall pay and grant to the Company the money and land subsidies applicable thereto, according to the division and appropriation thereof made as hereinbefore provided; the Company having the option of receiving in lieu of cash, terminable bonds of the Government, bearing such rate of interest, for such period and nominal amount as may be arranged, and which may be equivalent according to actuarial calculation to the corresponding cash payment,—the Government allowing four per cent. interest on moneys deposited with them;

Provision as to materials for construction delivered by company in advance.

(c.) If at any time the Company shall cause to be delivered on or near the line of the said railway, at a place satisfactory to the Government, steel rails and fastenings to be used in the construction of the railway, but in advance of the requirements for such construction, the Government, on the requisition of the Company, shall, upon such terms and conditions as shall be determined by the Government, advance thereon three-fourths of the value thereof at the place of delivery. And a proportion of the amount so advanced shall be deducted, according to such terms and conditions, from the subsidy to be thereafter paid, upon the settlement for each section of 20 miles of railway,—which proportion shall correspond with the proportion of such rails and fastenings which have been used in the construction of such sections;

Option of the company during a certain time to substitute payment of interest on certain bonds instead of issuing land grant bonds.

(d.) Until the first day of January, 1882, the Company shall have the option, instead of issuing land grant bonds as hereinafter provided, of substituting the payment by the Government of the interest (or part of the interest) on bonds of the Company mortgaging the railway and the lands to be granted by the Government, running over such term of years as may be approved by the Governor in Council, in lieu of the cash subsidy hereby agreed to be granted to the Company or any part thereof—such payments of interest to be equivalent according to actuarial calculation to the corresponding cash payment, the Government allowing four per cent. interest on moneys deposited with them; and the coupons representing the interest on such bonds shall be guaranteed by the Government to the extent of such equivalent. And the proceeds of the sale of such bonds to the extent of not more than \$25,000,000, shall be deposited with the Government, and the balance of such proceeds shall be placed elsewhere by the Company, to the satisfaction and under the exclusive control of the Government; failing which last condition the bonds in excess of those sold shall remain in the hands of the Government. And from time to time as the work proceeds, the Government shall pay over to the Company: firstly, out of the amount so to be placed by the Company,—and, after the expenditure of that amount, out of the amount deposited with the Government,—sums of money bearing the same proportion to the mileage cash subsidy

Deposit of proceeds of sale of such bonds.

Payments to company out of such deposits.

hereby agreed upon, which the net proceeds of such sale (if the whole of such bonds are sold upon the issue thereof, or, if such bonds be not all then sold, the net proceeds of the issue, calculated at the rate at which the sale of part of them shall have been made), shall bear to the sum of \$25,000,000. But if only a portion of the bond issue be sold, the amount earned by the Company according to the proportion aforesaid shall be paid to the Company, partly out of the bonds in the hands of the Government, and partly out of the cash deposited with the Government, in similar proportions to the amount of such bonds sold and remaining unsold respectively; and the Company shall receive the bonds so paid, as cash, at the rate at which the said partial sale thereof shall have been made. And the Government will receive and hold such sum of money towards the creation of a sinking fund for the redemption of such bonds, and upon such terms and conditions as shall be agreed upon between the Government and the Company.

Payment by
delivery of
bonds.

Sinking fund.

(e.) If the Company avail themselves of the option granted by clause (d), the sum of \$2,900 per mile for the first eight hundred miles of the central section shall be deducted *pro rata* from the amount payable to the Company in respect of the said eight hundred miles, and shall be appropriated to increase the mileage cash subsidy appropriated to the remainder of the said central section.

Alteration in
apportion-
ment of
money grant
in such case.

10. In further consideration of the premises, the Government shall also grant to the Company the lands required for the road bed of the railway, and for its stations, station grounds, workshops, dock ground and water frontage at the termini on navigable waters, buildings, yards and other appurtenances required for the convenient and effectual construction and working of the railway, in so far as such land shall be vested in the Government. And the Government shall also permit the admission free of duty, of all steel rails, fish plates and other fastenings, spikes, bolts and nuts, wire, timber and all material for bridges, to be used in the original construction of the railway, and of a telegraph line in connection therewith, and all telegraphic apparatus required for the first equipment of such telegraph line; and will convey to the Company, at cost price, with interest, all rails and fastenings bought in or since the year 1879, and other materials for construction in the possession of or purchased by the Government, at a valuation,—such rails, fastenings and materials not being required by it for the construction of the said Lake Superior and Western sections.

Grant of land
required for
railway pur-
poses.

Admission of
certain ma-
terials free of
duty.

Sale of cer-
tain materials
to Company
by Govern-
ment.

11. The grant of land hereby agreed to be made to the Company, shall be so made in alternate sections of 640 acres each, extending back 24 miles deep, on each side of the railway, from Winnipeg to Jasper House, in so far as such lands shall be vested in the Government,—the Company receiving the sections bearing uneven numbers. But

Provision
respecting
land grant.

Case of deficiency of land on line of railway provided for.

should any of such sections consist in a material degree of land not fairly fit for settlement, the Company shall not be obliged to receive them as part of such grant; and the deficiency thereby caused and any further deficiency which may arise from the insufficient quantity of land along the said portion of railway, to complete the said 25,000,000 acres, or from the prevalence of lakes and water stretches in the sections granted (which lakes and water stretches shall not be computed in the acreage of such sections), shall be made up from other portions in the tract known as the fertile belt, that is to say, the land lying between parallels 49 and 57 degrees of north latitude, or elsewhere at the option of the Company, by the grant therein of similar alternate sections extending back 24 miles deep on each side of any branch line or lines of railway to be located by the Company, and to be shown on a map or plan thereof deposited with the Minister of Railways; or of any common front line or lines agreed upon between the Government and the Company,—the conditions hereinbefore stated as to lands not fairly fit for settlement to be applicable to such additional grants. And the Company may with the consent of the Government, select in the North-West Territories any tract or tracts of land not taken up as a means of supplying or partially supplying such deficiency. But such grants shall be made only from lands remaining vested in the Government.

Selection by Company in such case, with consent of Government.

As to Indian title.

12. The Government shall extinguish the Indian title affecting the lands herein appropriated, and to be hereafter granted in aid of the railway.

Location of railway between certain terminal points.

13. The Company shall have the right, subject to the approval of the Governor in Council, to lay out and locate the line of the railway hereby contracted for, as they may see fit, preserving the following terminal points, namely: from Callander Station to the point of junction with the Lake Superior section; and from Selkirk to the junction with the western section at Kamloops by way of the Yellow Head Pass.

Power to construct branches.

14. The Company shall have the right, from time to time, to lay out, construct, equip, maintain and work branch lines of railway from any point or points along their main line of railway, to any point or points within the territory of the Dominion: Provided always, that before commencing any branch they shall first deposit a map and plan of such branch in the Department of Railways. And the Government shall grant to the Company the lands required for the road bed of such branches, and for the stations, station grounds, buildings, workshops, yards and other appurtenances requisite for the efficient construction and working of such branches, in so far as such lands are vested in the Government.

Lands necessary for the same.

Restriction as to competing lines for a

15. For twenty years from the date hereof, no line of railway shall be authorized by the Dominion Parliament to be

constructed south of the Canadian Pacific Railway, from any point at or near the Canadian Pacific Railway, except such line as shall run south west or to the westward of south west; nor to within fifteen miles of latitude 49. And in the establishment of any new Province in the North-West Territories, provision shall be made for continuing such prohibition after such establishment until the expiration of the said period.

limited
period.

16. The Canadian Pacific Railway and all stations and station grounds, work-shops, buildings, yards and other property, rolling stock and appurtenances required and used for the construction and working thereof, and the capital stock of the Company, shall be forever free from taxation by the Dominion, or by any Province hereafter to be established, or by any municipal corporation therein; and the lands of the Company, in the North-West Territories, until they are either sold or occupied, shall also be free from such taxation for 20 years after the grant thereof from the Crown.

Exemption
from taxation
in N. W. Ter-
ritories.

17. The Company shall be authorized by their Act of incorporation to issue bonds, secured upon the land granted and to be granted to the Company, containing provisions for the use of such bonds in the acquisition of lands, and such other conditions as the Company shall see fit,—such issue to be for \$25,000,000. And should the Company make such issue of land grant bonds, then they shall deposit them in the hands of the Government; and the Government shall retain and hold one-fifth of such bonds as security for the due performance of the present contract in respect of the maintenance and continuous working of the railway by the Company, as herein agreed, for ten years after the completion thereof, and the remaining \$20,000,000 of such bonds shall be dealt with as hereinafter provided. And as to the said one-fifth of the said bonds, so long as no default shall occur in the maintenance and working of the said Canadian Pacific Railway, the Government shall not present or demand payment of the coupons of such bonds, nor require payment of any interest thereon. And if any of such bonds, so to be retained by the Government, shall be paid off in the manner to be provided for the extinction of the whole issue thereof, the Government shall hold the amount received in payment thereof as security for the same purposes as the bonds so paid off, paying interest thereon at four per cent. per annum so long as default is not made by the Company in the performance of the conditions hereof. And at the end of the said period of ten years from the completion of the said railway, if no default shall then have occurred in such maintenance and working thereof, the said bonds, or if any of them shall have been paid off, the remainder of said bonds and the money received for those paid off, with accrued interest, shall be delivered back by the Government to the Company with all the coupons

Land grant
bonds.

Their nature,
and condi-
tions of issue
by the com-
pany.

Deposit with
Government;
for what pur-
poses and on
what condi-
tions.

If the com-
pany make
no default in
operating
railway.

In case of
such default.

attached to such bonds. But if such default should occur, the Government may thereafter require payment of interest on the bonds so held, and shall not be obliged to continue to pay interest on the money representing bonds paid off; and while the Government shall retain the right to hold the said portion of the said land grant bonds, other securities satisfactory to the Government may be substituted for them by the Company, by agreement with the Government.

Provision if
such bonds
are sold faster
than lands are
earned by the
company, and
deposit on
interest with
Government,
and payments
by Govern-
ment to com-
pany.

18. If the Company shall find it necessary or expedient to sell the remaining \$20,000,000 of the land grant bonds or a larger portion thereof than in the proportion of one dollar for each acre of land then earned by the Company, they shall be allowed to do so, but the proceeds thereof, over and above the amount to which the Company shall be entitled as herein provided, shall be deposited with the Government. And the Government shall pay interest upon such deposit half-yearly, at the rate of four per cent. per annum, and shall pay over the amount of such deposit to the Company from time to time, as the work proceeds, in the same proportions, and at the same times and upon the same conditions as the land grant—that is to say: the Company shall be entitled to receive from the Government out of the proceeds of the said land grant bonds, the same number of dollars as the number of acres of the land subsidy which shall then have been earned by them, less one-fifth thereof, that is to say, if the bonds are sold at par, but if they are sold at less than par, then a deduction shall be made therefrom corresponding to the discount at which such bonds are sold. And such land grant shall be conveyed to them by the Government, subject to the charge created as security for the said land grant bonds, and shall remain subject to such charge till relieved thereof in such manner as shall be provided for at the time of the issue of such bonds.

Lands to be
granted sub-
ject to such
bonds.

Company to
pay certain
expenses.

19. The Company shall pay any expenses which shall be incurred by the Government in carrying out the provisions of the last two preceding clauses of this contract.

If land bonds
are not issued,
one-fifth of
land to be
retained as
security.

20. If the Company should not issue such land grant bonds, then the Government shall retain from out of each grant to be made from time to time, every fifth section of the lands hereby agreed to be granted, such lands to be so retained as security for the purposes, and for the length of time, mentioned in section eighteen hereof. And such lands may be sold in such manner and at such prices as shall be agreed upon between the Government and the Company; and in that case the price thereof shall be paid to and held by the Government for the same period, and for the same purposes as the land itself, the Government paying four per cent. per annum interest thereon. And other securities satisfactory to the Government may be substituted for such lands or money by agreement with the Government.

How to be
disposed of.

Substitution
of other se-
curities.

21. The Company to be incorporated with sufficient powers to enable them to carry out the foregoing contract, and this contract shall only be binding in the event of an Act of incorporation being granted to the Company in the form hereto appended as Schedule A.

Company to be incorporated as by schedule A.

22. The Railway Act of 1879, in so far as the provisions of the same are applicable to the undertaking referred to in this contract, and in so far as they are not inconsistent herewith or inconsistent with or contrary to the provisions of the Act of incorporation to be granted to the Company, shall apply to the Canadian Pacific Railway.

Railway Act to apply.

Exceptions.

In witness whereof the parties hereto have executed these presents at the City of Ottawa, this twenty-first day of October, 1880.

(Signed)	CHARLES TUPPER,
	<i>Minister of Railways and Canals.</i>
"	GEO. STEPHEN,
"	DUNCAN McINTYRE,
"	J. S. KENNEDY,
"	R. B. ANGUS,
"	J. J. HILL,
	Per pro. Geo. Stephen.
"	MORTON, ROSE & Co.,
"	KOHN, REINACH & Co.,
	By P. Du P. Grenfell.

Signed in presence of F. BRAUN,
and Seal of the Department
hereto affixed by Sir CHARLES
TUPPER, in presence of
(Signed) F. BRAUN.

SCHEDULE A, REFERRED TO IN THE FOREGOING CONTRACT.

INCORPORATION.

1. George Stephen, of Montreal, in Canada, Esquire; Duncan McIntyre, of Montreal, aforesaid, merchant; John S. Kennedy, of New York, in the State of New York, banker; the firm of Morton, Rose and Company, of London, in England, merchants; the firm of Kohn, Reinach and Company, of Paris, in France, bankers; Richard B. Angus, and James J. Hill, both of St. Paul, in the State of Minnesota, Esquires; with all such other persons and corporations as shall become shareholders in the Company hereby incorporated, shall be and they are hereby constituted a body corporate and politic, by the name of the "Canadian Pacific Railway Company."

Certain persons incorporated.

Corporate name.

Capital stock
and shares.

2. The capital stock of the Company shall be twenty-five million dollars, divided into shares of one hundred dollars each,—which shares shall be transferable in such manner and upon such conditions as shall be provided by the by-laws of the Company; and such shares, or any part thereof, may be granted and issued as paid up shares for value *bonâ fide* received by the Company, either in money at par or at such price and upon such conditions as the board of directors may fix, or as part of the consideration of any contract made by the Company.

Paid up
shares.

Substitution
of company
as contract-
ors: and
when.

3. As soon as five million dollars of the stock of the Company have been subscribed, and thirty per centum thereof paid up, and upon the deposit with the Minister of Finance of the Dominion of one million dollars in money or in securities approved by the Governor in Council, for the purpose and upon the conditions in the foregoing contract provided, the said contract shall become and be transferred to the Company, without the execution of any deed or instrument in that behalf; and the Company shall, thereupon become and be vested with all the rights of the contractors named in the said contract, and shall be subject to, and liable for, all their duties and obligations, to the same extent and in the same manner as if the said contract had been executed by the said Company instead of by the said contractors; and thereupon the said contractors, as individuals, shall cease to have any right or interest in the said contract and shall not be subject to any liability or responsibility under the terms thereof otherwise than as members of the corporation hereby created. And upon the performance of the said conditions respecting the subscription of stock, the partial payment thereof, and the deposit of one million dollars to the satisfaction of the Governor in Council, the publication by the Secretary of State in the *Canada Gazette*, of a notice that the transfer of the contract to the Company has been effected and completed shall be conclusive proof of the fact. And the Company shall cause to be paid up, on or before the first day of May next, a further instalment of twenty per centum upon the said first subscription of five million dollars, of which call thirty days' notice by circular mailed to each shareholder shall be sufficient. And the Company shall call in, and cause to be paid up, on or before the 31st day of December, 1882, the remainder of the said first subscription of five million dollars.

Effect of such
substitution.

Notice in
*Canada
Gazette*.

Further in-
stalment to
be paid up.

And rest of
\$5,000,000.

Necessary
franchises
and powers
granted.

Proviso.

4. All the franchises and powers necessary or useful to the Company to enable them to carry out, perform, enforce, use, and avail themselves of every condition, stipulation, obligation, duty, right, remedy, privilege, and advantage agreed upon, contained or described in the said contract, are hereby conferred upon the Company. And the enactment of the special provisions hereinafter contained shall not be

held to impair or derogate from the generality of the franchises and powers so hereby conferred upon them.

DIRECTORS.

5. The said George Stephen, Duncan McIntyre, John S. Kennedy, Richard B. Angus, James J. Hill, Henry Stafford Northcote, of London, aforesaid, Esquires, Pas-oe du P. Grenfell, of London, aforesaid, merchant, Charles Day Rose, of London, aforesaid, merchant, and Baron J. de Reinach, of Paris, aforesaid, banker, are hereby constituted the first directors of the Company, with power to add to their number, but so that the directors shall not in all exceed fifteen in number; and the majority of the directors, of whom the president shall be one, shall be British subjects. And the board of directors so constituted shall have all the powers hereby conferred upon the directors of the Company, and they shall hold office until the first annual meeting of the shareholders of the Company.

First directors of the company.

Number limited.

Majority to be British subjects.

Powers and term of office.

6. Each of the directors of the Company, hereby appointed, or hereafter appointed or elected, shall hold at least two hundred and fifty shares of the stock of the Company. But the number of directors to be hereafter elected by the shareholders shall be such, not exceeding fifteen, as shall be fixed by by-law, and subject to the same conditions as the directors appointed by, or under the authority of the last preceding section; the number thereof may be hereafter altered from time to time in like manner. The votes for their election shall be by ballot.

Qualification of directors.

Alteration of number by by-law.

Ballot.

7. A majority of the directors shall form a quorum of the board; and until otherwise provided by by-law, directors may vote and act by proxy.—such proxy to be held by a director only; but no director shall hold more than two proxies, and no meeting of directors shall be competent to transact business unless at least three directors are present thereat in person, the remaining number of directors required to form a quorum being represented by proxies.

Quorum.

Proviso.

Three must be present.

8. The board of directors may appoint, from out of their number, an executive committee, composed of at least three directors, for the transaction of the ordinary business of the Company, with such powers and duties as shall be fixed by the by-laws; and the president shall be *ex-officio* a member of such committee.

Executive committee.

President to be one.

9. The chief place of business of the Company shall be at the city of Montreal, but the Company may, from time to time, by by-law, appoint and fix other places within or beyond the limits of Canada, at which the business of the Company may be transacted, and at which the directors or

Chief place of business. Other places.

shareholders may meet when called, as shall be determined by the by-laws. And the Company shall appoint and fix by by-law, at least one place in each Province or Territory through which the railway shall pass, where service of process may be made upon the Company, in respect of any cause of action arising within such Province or Territory, and may afterwards from time to time, change such place by by-law. And a copy of any by-law fixing or changing any such place, duly authenticated as herein provided, shall be deposited by the Company in the office, at the seat of Government of the Province or Territory to which such by-law shall apply, of the clerk or prothonotary of the highest, or one of the highest, courts of civil jurisdiction of such Province or Territory. And if any cause of action shall arise against the Company within any Province or Territory, and any writ or process be issued against the Company thereon, out of any court in such Province or Territory, service of such process may be validly made upon the Company at the place within such Province or Territory so appointed and fixed; but if the Company fail to appoint and fix such place, or to deposit, as hereinbefore provided, the by-law made in that behalf, any such process may be validly served upon the Company, at any of the stations of the said railway within such Province or Territory.

Places for
service of
process, &c.

How to be
notified.

Service of
process
thereat.

And if com-
pany fail to
appoint
places.

SHAREHOLDERS.

First and
other annual
meetings.

10. The first annual meeting of the shareholders of the Company, for the appointment of directors, shall be held on the second Wednesday in May, one thousand eight hundred and eighty-two, at the principal office of the Company, in Montreal; and the annual general meeting of shareholders, for the election of directors and the transaction of business generally, shall be held on the same day in each year thereafter at the same place unless otherwise provided by the by-laws. And notice of each of such meetings shall be given by the publication thereof in the *Canada Gazette* for four weeks, and by such further means as shall, from time to time, be directed by the by-laws.

Notice.

Special gene-
ral meetings:
notice.

11. Special general meetings of the shareholders may be convened in such manner as shall be provided by the by-laws; and except as hereinafter provided, notice of such meetings shall be given in the same manner as notices of annual general meetings, the purpose for which such meeting is called being mentioned in the notices thereof; and, except as hereinafter provided, all such meetings shall be held at the chief place of business of the Company.

Place.

Provision if
a meeting be
necessary
before notice

12. If at any time before the first annual meeting of the shareholders of the Company, it should become expedient that a meeting of the directors of the Company, or a special

general meeting of the shareholders of the Company, should be held, before such meeting can conveniently be called, and notice thereof given in the manner provided by this Act, or by the by-laws, or before by-laws in that behalf have been passed, and at a place other than at the chief place of business of the Company in Montreal before the enactment of a by-law authorizing the holding of such meeting elsewhere: it shall be lawful for the president or for any three of the directors of the Company to call special meetings either of directors or of shareholders, or of both, to be held at the city of London in England, at times and places respectively, to be stated in the notices to be given of such meetings respectively. And notices of such meetings may be validly given by a circular mailed to the ordinary address of each director or shareholder as the case may be, in time to enable him to attend such meeting, stating in general terms the purpose of the intended meeting. And in the case of a meeting of shareholders, the proceedings of such meeting shall be held to be valid and sufficient, and to be binding on the Company in all respects, if every shareholder of the Company be present thereat in person or by proxy, notwithstanding that notice of such meeting shall not have been given in the manner required by this Act.

as aforesaid
can be given.

Notices in
such case.

Meetings
always valid
if all share-
holders or
their proxies
are present.

13. No shareholder holding shares upon which any call is overdue and unpaid shall vote at any meeting of shareholders. And unless otherwise provided by the by-laws, the person holding the proxy of a shareholder shall be himself a shareholder.

Limitation as
to votes and
proxies.

14. No call upon unpaid shares shall be made for more than twenty per centum upon the amount thereof.

And as to
calls.

RAILWAY AND TELEGRAPH LINE.

15. The Company may lay out, construct, acquire, equip, maintain and work a continuous line of railway, of the gauge of four feet eight and one-half inches; which railway shall extend from the terminus of the Canada Central Railway near Lake Nipissing, known as Callander Station, to Port Moody in the Province of British Columbia; and also a branch line of railway from some point on the main line of railway to Fort William on Thunder Bay; and also the existing branch line of railway from Selkirk, in the Province of Manitoba, to Pembina in the said Province; and also other branches to be located by the Company from time to time as provided by the said contract,—the said branches to be of the gauge aforesaid: and the said main line of railway, and the said branch lines of railway, shall be commenced and completed as provided by the said contract; and together with such other branch lines as shall be hereafter constructed by the said Company, and any extension of the

Line and
gauge of
railway.

And of cer-
tain branches
thereof.

Commence-
ment and
completion.

Other branch-
es.

Name of railway. said main line of railway that shall hereafter be constructed or acquired by the Company, shall constitute the line of railway hereinafter called "The Canadian Pacific Railway."

Company may construct lines of telegraph or telephone, and work them and collect tolls. **16.** The Company may construct, maintain and work a continuous telegraph line and telephone lines throughout and along the whole line of the Canadian Pacific Railway, or any part thereof, and may also construct or acquire by purchase, lease or otherwise, any other line or lines of telegraph connecting with the line so to be constructed along the line of the said railway, and may undertake the transmission of messages for the public by any such line or lines of telegraph or telephone, and collect tolls for so doing; or may lease such line or lines of telegraph or telephone, or any portion thereof; and if they think proper to undertake the transmission of messages for hire they shall be subject to the provisions of the fourteenth, fifteenth and sixteenth sections of chapter sixty-seven of the Consolidated Statutes of Canada. And they may use any improvement that may hereafter be invented (subject to the rights of patentees) for telegraphing or telephoning, and any other means of communication that may be deemed expedient by the Company at any time hereafter.

Subject to Con. Stat. Can., c. 67, ss. 14, 15, 16.

As to future inventions.

POWERS.

Application of 42 v., c. 9. **17.** "*The Consolidated Railway Act*, 1879," in so far as the provisions of the same are applicable to the undertaking authorized by this charter, and in so far as they are not inconsistent with or contrary to the provisions hereof, and save and except as hereinafter provided, is hereby incorporated herewith.

Exceptions as to such application. **18.** As respects the said railway, the seventh section of "*The Consolidated Railway Act*, 1879," relating to POWERS, and the eighth section thereof relating to PLANS AND SURVEYS, shall be subject to the following provisions:—

As to lands of the Crown required. (a.) The Company shall have the right to take, use and hold the beach and land below high water mark, in any stream, lake, navigable water, gulf or sea, in so far as the same shall be vested in the Crown and shall not be required by the Crown, to such extent as shall be required by the Company for its railway and other works, and as shall be exhibited by a map or plan thereof deposited in the office of the Minister of Railways. But the provisions of this sub-section shall not apply to any beach or land lying East of Lake Nipissing except with the approval of the Governor in Council;

Plans and book of reference. (b.) It shall be sufficient that the map or plan and book of reference for any portion of the line of the railway not being within any district or county for which there is a Clerk of the Peace, be deposited in the office of the Minister of Rail-

ways of Canada; and any omission, mis-statement or erroneous description of any lands therein may be corrected by the Company, with the consent of the Minister, and certified by him; and the Company may then make the railway in accordance with such certified correction;

(c.) The eleventh sub-section of the said eighth section of the Railway Act shall not apply to any portion of the railway passing over ungranted lands of the Crown, or lands not within any surveyed township in any Province; and in such places, deviations not exceeding five miles from the line shown on the map or plan as aforesaid, deposited by the Company, shall be allowed, without any formal correction or certificate; and any further deviation that may be found expedient may be authorized by order of the Governor in Council, and the Company may then make their railway in accordance with such authorized deviation;

Deviations
from line on
plan.

(d.) The map or plan and book of reference of any part of the main line of the Canadian Pacific Railway made and deposited in accordance with this section, after approval by the Governor in Council, and of any branch of such railway hereafter to be located by the said Company in respect of which the approval of the Governor in Council shall not be necessary, shall avail as if made and deposited as required by the said "*Consolidated Railway Act, 1879.*" for all the purposes of the said Act, and of this Act; and any copy of, or extract therefrom, certified by the said Minister or his deputy, shall be received as evidence in any court of law in Canada;

Deposit of
plan of main
line, &c.

And of
branches.

Copies
thereof.

(e.) It shall be sufficient that a map or profile of any part of the completed railway, which shall not lie within any county or district having a registry office, be filed in the office of the Minister of Railways.

Registration
thereof.

19. It shall be lawful for the Company to take from any public lands adjacent to or near the line of the said railway, all stone, timber, gravel and other materials which may be necessary or useful for the construction of the railway; and also to lay out and appropriate to the use of the Company, a greater extent of lands, whether public or private, for stations, depots, workshops, buildings, side tracks, wharves, harbors and roadway, and for establishing screens against snow, than the breadth and quantity mentioned in "*The Consolidated Railway Act, 1879.*"—such greater extent taken, in any case being allowed by the Government, and shown on the maps or plans deposited with the Minister of Railways.

Company
may take
materials
from public
lands; and a
greater extent
for stations,
&c.,
than allowed
by 42 V. c. 9.

Proviso.

20. The limit to the reduction of tolls by the Parliament of Canada provided for by the eleventh sub-section of the 17th section of "*The Consolidated Railway Act, 1879.*" respecting TOLLS, is hereby extended, so that such reduction may be to such an extent that such tolls when reduced shall not

Limit of
reduction of
tolls by Par-
liament under
42 V. c. 9, s.
17, extended.

Reduction by Governor in Council extended in like manner.

produce less than ten per cent. per annum profit on the capital actually expended in the construction of the railway, instead of not less than fifteen per cent. per annum profit, as provided by the said sub-section; and so also that such reduction shall not be made unless the net income of the Company, ascertained as described in said sub-section, shall have exceeded ten per cent. per annum instead of fifteen per cent. per annum as provided by the said sub-section. And the exercise by the Governor in Council of the power of reducing the tolls of the Company as provided by the tenth sub-section of said section seventeen is hereby limited to the same extent with relation to the profit of the Company, and to its net revenue, as that to which the power of Parliament to reduce tolls is limited by said sub-section eleven as hereby amended.

Restriction as to transfers of stock.

21. The first and second sub-sections of section twenty-two of "*The Consolidated Railway Act, 1879*," shall not apply to the Canadian Pacific Railway Company; and it is hereby enacted that the transfer of shares in the undertaking shall be made only upon the books of the Company in person or by attorney, and shall not be valid unless so made; and the form and mode of transfer shall be such as shall be, from time to time, regulated by the by-laws of the Company. And the funds of the Company shall not be used in any advance upon the security of any of the shares or stock of the Company.

Advances on, by company forbidden.

Transfer or transmission to non-shareholders subject to veto of directors until completion of contract.

22. The third and fourth sub-sections of said section twenty-two of "*The Consolidated Railway Act, 1879*," shall be subject to the following provisions, namely,—that if before the completion of the railway and works under the said contract, any transfer should purport to be made of any stock or share in the Company, or any transmission of any share should be effected under the provisions of said sub-section four, to a person not already a shareholder in the Company, and if in the opinion of the board it should not be expedient that the person (not being already a shareholder) to whom such transfer or transmission shall be made or effected should be accepted as a shareholder, the directors may, by resolution, veto such transfer or transmission; and thereafter, and until after the completion of the said railway and works under the said contract, such person shall not be, or be recognized as a shareholder in the Company; and the original shareholder, or his estate, as the case may be, shall remain subject to all the obligations of a shareholder in the Company, with all the rights conferred upon a shareholder under this Act. But any firm holding paid-up shares in the Company may transfer the whole or any of such shares to any partner in such firm, having already an interest as such partner in such shares, without being subject to such veto. And in the event of such veto being exercised, a note shall

Proviso: as to transfer by a firm to a partner.

be taken of the transfer or transmission so vetoed in order that it may be recorded in the books of the Company after the completion of the railway and works as aforesaid: but until such completion, the transfer or transmission so vetoed shall not confer any rights, nor have any effect of any nature or kind whatever as respects the Company.

Note a transfer to be made and for what purpose.

22. Sub-section sixteen of section nineteen, relating to PRESIDENT AND DIRECTORS, THEIR ELECTION AND DUTIES; sub-section two of section twenty-four, relating to BY-LAWS, NOTICES, &c., sub-sections five and six of section twenty-eight, relating to GENERAL PROVISIONS, and section ninety-seven, relating to RAILWAY FUND, of "*The Consolidated Railway Act, 1879*," shall not, nor shall any of them apply to the Canadian Pacific Railway or to the Company hereby incorporated.

Certain other provisions of 42 V.C.C. not to apply.

24. The said Company shall afford all reasonable facilities to the Ontario and Pacific Junction Railway Company, when their railway shall be completed to a point of junction with the Canadian Pacific Railway, and to the Canada Central Railway Company, for the receiving, forwarding and delivering of traffic upon and from the railways of the said Companies, respectively, and for the return of carriages, trucks and other vehicles; and no one of the said Companies shall give or continue any preference or advantage to, or in favor of either of the others, or of any particular description of traffic, in any respect whatsoever; nor shall any one of the said Companies subject any other thereof, or any particular description of traffic, to any prejudice or disadvantage in any respect whatsoever; and any one of the said companies which shall have any terminus or station near any terminus or station of either of the others, shall afford all reasonable facilities for receiving and forwarding all the traffic arriving by either of the others, without any unreasonable delay, and without any preference or advantage, or prejudice or disadvantage, and so that no obstruction may be offered in the using of such railway as a continuous line of communication, and so that all reasonable accommodation may, at all times, by the means aforesaid, be mutually afforded by and to the said several railway companies; and the said Canadian Pacific Railway Company shall receive and carry all freight and passenger traffic shipped to or from any point on the railway of either of the said above named railway companies passing over the Canadian Pacific Railway or any part thereof, at the same mileage rate and subject to the same charges for similar services, without granting or allowing any preference or advantage to the traffic coming from or going upon one of such railways over such traffic coming from or going upon the other of them, reserving, however, to the said Canadian Pacific Railway Company the right of making special rates for purchasers of land, or for

Company to afford reasonable facilities to and receive the like from certain other railway companies.

As to rates of carriage of traffic in such cases.

Reservation as to purchases of land, and emigrants.

Contrary
agreements
void.

immigrants or intending immigrants, which special rates shall not govern or affect the rates of passenger traffic as between the said Company and the said two above named companies or either of them. And any agreement made between any two of the said companies contrary to the foregoing provisions, shall be unlawful, null and void.

Company
may purchase
or acquire by
lease or other-
wise certain
other rail-
ways or
amalgamate
with them.

25. The Company, under the authority of a special general meeting of the shareholders thereof, and as an extension of the railway hereby authorized to be constructed, may purchase or acquire by lease or otherwise, and hold and operate the Canada Central Railway, or may amalgamate therewith, and may purchase or acquire by lease or otherwise and hold and operate a line or lines of railway from the city of Ottawa to any point at navigable water on the Atlantic seaboard or to any intermediate point, or may acquire running powers over any railway now constructed between Ottawa and any such point or intermediate point: And the Company may purchase or acquire any such railway, subject to such existing mortgages, charges or liens thereon as shall be agreed upon, and shall possess with regard to any lines of railway so purchased, or acquired, and becoming the property of the Company, the same powers as to the issue of bonds thereon, or on any of them, to an amount not exceeding twenty thousand dollars per mile, and as to the security for such bonds, as are conferred upon the Company by the twenty-eighth section hereof, in respect of bonds to be issued upon the Canadian Pacific Railway. But such issue of bonds shall not affect the right of any holder of mortgages or other charges already existing upon any line of railway so purchased or acquired; and the amount of bonds hereby authorized to be issued upon such line of railway shall be diminished by the amount of such existing mortgages or charges thereon.

And borrow
to a limited
amount on
bonds in con-
sequence.

Not to affect
prior mort-
gages.

Company
may have
docks, &c.,
and run ves-
sels on any
navigable
water their
railway
touches.

26. The Company shall have power and authority to erect and maintain docks, dockyards, wharves, slips and piers at any point on or in connection with the said Canadian Pacific Railway, and at all the termini thereof on navigable water, for the convenience and accommodation of vessels and elevators; and also to acquire and work elevators, and to acquire, own, hold, charter, work and run steam and other vessels for cargo and passengers upon any navigable water, which the Canadian Pacific Railway may reach or connect with.

BY-LAWS.

By-laws may
provide for
certain pur-
poses.

27. The by-laws of the Company may provide for the remuneration of the president and directors of the Company, and of any executive committee of such directors; and for the transfer of stock and shares; the registration and

inscription of stock, shares and bonds, and the transfer of registered bonds; and the payment of dividends and interest at any place or places within or beyond the limits of Canada; and for all other matters required by the said contract or by this Act to be regulated by by-laws; but the by-laws of the Company made as provided by law shall in no case have any force or effect after the next general meeting of shareholders which shall be held after the passage of such by-laws, unless they are approved by such meeting.

Must be confirmed at next general meeting.

BONDS.

28. The Company, under the authority of a special general meeting of the shareholders called for the purpose, may issue mortgage bonds to the extent of ten thousand dollars per mile of the Canadian Pacific Railway for the purposes of the undertaking authorized by the present Act; which issue shall constitute a first mortgage and privilege upon the said railway, constructed or acquired, and to be thereafter constructed or acquired, and upon its property, real and personal, acquired and to be thereafter acquired, including rolling stock and plant, and upon its tolls and revenues (after deduction from such tolls and revenues of working expenses), and upon the franchises of the Company; the whole as shall be declared and described as so mortgaged in any deed of mortgage as hereinafter provided: Provided always, however, that if the Company shall have issued, or shall intend to issue land grant bonds under the provisions of the thirtieth section hereof, the lands granted and to be granted by the Government to the Company may be excluded from the operation of such mortgage and privilege; and provided also, that such mortgage and privilege shall not attach upon any property which the Company are hereby, or by the said contract, authorized to acquire or receive from the Government of Canada until the same shall have been conveyed by the Government to the Company, but shall attach upon such property, if so declared in such deed, as soon as the same shall be conveyed to the Company. And such mortgage and privilege may be evidenced by a deed or deeds of mortgage executed by the Company, with the authority of its shareholders expressed by a resolution passed at such special general meeting; and any such deed may contain such description of the property mortgaged by such deed, and such conditions respecting the payment of the bonds secured thereby and of the interest thereon, and the remedies which shall be enjoyed by the holders of such bonds or by any trustee or trustees for them in default of such payment, and the enforcement of such remedies, and may provide for such forfeitures and penalties, in default of such payment, as may be approved by such meeting; and may also contain, with the approval aforesaid, authority to the trustee or trustees,

Amount of bonds limited.

Mortgages for securing the same on all the property of the company.

Proviso: in case land grant bonds have been issued under section 30.

Evidence of mortgage and what conditions the bonds may contain.

Remedies of holders in default of payment.

Right of voting may in such case, be transferred to bondholders.

Cancellation of shares deprived of voting power.
Enforcing conditions.

Further provisions under mortgage deed.

Provision in case of change of ownership, &c., of railway, in such case.

Increase of borrowing power if no land grant bonds are issued.

Provision if such bonds are issued before completion of railway.

upon such default, as one of such remedies, to take possession of the railway and property mortgaged, and to hold and run the same for the benefit of the bondholders thereof for a time to be limited by such deed, or to sell the said railway and property, after such delay, and upon such terms and conditions as may be stated in such deed: and with like approval any such deed may contain provisions to the effect that upon such default and upon such other conditions as shall be described in such deed, the right of voting possessed by the shareholders of the Company, and by the holders of preferred stock therein, or by either of them, shall cease and determine, and shall thereafter appertain to the bondholders, or to them and to the holders of the whole or of any part of the preferred stock of the Company, as shall be declared by such deed: and such deed may also provide for the conditional or absolute cancellation after such sale of any or all of the shares so deprived of voting power, or of any or all of the preferred stock of the Company, or both; and may also, either directly by its terms, or indirectly by reference to the by-laws of the Company, provide for the mode of enforcing and exercising the powers and authority to be conferred and defined by such deed, under the provisions hereof. And such deed, and the provisions thereof made under the authority hereof, and such other provisions thereof as shall purport (with like approval) to grant such further and other powers and privileges to such trustee or trustees and to such bondholders, as are not contrary to law or to the provisions of this Act, shall be valid and binding. But if any change in the ownership or possession of the said railway and property shall, at any time, take place under the provisions hereof, or of any such deed, or in any other manner, the said railway and property shall continue to be held and operated under the provisions hereof, and of "*The Consolidated Railway Act, 1879*," as hereby modified. And if the Company does not avail itself of the power of issuing bonds secured upon the land grant alone as hereinafter provided, the issue of bonds hereby authorized may be increased to any amount not exceeding twenty thousand dollars per mile of the said Canadian Pacific Railway.

29. If any bond issue be made by the Company under the last preceding section before the said railway is completed according to the said contract, a proportion of the proceeds of such bonds or a proportion of such bonds if they be not sold, corresponding to the proportion of the work contracted for then remaining incomplete, shall be received by the Government, and shall be held, dealt with and, from time to time, paid over by the Government to the Company upon the same conditions, in the same manner and according to the same proportions as the proceeds of the bonds, the issue of which is contemplated by sub-section (*d.*) of clause 9 of the said contract, and by the thirty-first section hereof.

30. The Company may also issue mortgage bonds to the extent of twenty-five million dollars upon the lands granted in aid of the said railway and of the undertaking authorized by this Act; such issue to be made only upon similar authority to that required by this Act for the issue of bonds upon the railway; and when so made such bonds shall constitute a first mortgage upon such lands, and shall attach upon them when they shall be granted, if they are not actually granted at the time of the issue of such bonds. And such mortgage may be evidenced by a deed or deeds of mortgage to be executed under like authority to the deed securing the issue of bonds on the railway; and such deed or deeds under like authority may contain similar conditions and may confer upon the trustee or trustees named thereunder and upon the holders of the bonds secured thereby, remedies, authority, power and privileges, and may provide for forfeitures and penalties, similar to those which may be inserted and provided for under the provisions of this Act in any deed securing the issue of bonds on the railway, together with such other provisions and conditions not inconsistent with law or with this Act as shall be so authorized. And such bonds may be styled land grant bonds, and they and the proceeds thereof shall be dealt with in the manner provided in the said contract.

Provisions as to issue of land grant mortgage bonds.

Evidence of mortgage and conditions.

Name of, and how dealt with.

31. The Company may, in the place and stead of the said land grant bonds, issue bonds under the twenty-eighth section hereof, to such amount as they shall agree with the Government to issue, with the interest guaranteed by the Government as provided for in the said contract; such bonds to constitute a mortgage upon the property of the Company, and its franchises acquired and to be thereafter acquired—including the main line of the Canadian Pacific Railway, and the branches thereof hereinbefore described, with the plant and rolling stock thereof acquired and to be thereafter acquired, but exclusive of such other branches thereof and of such personal property as shall be excluded by the deed of mortgage to be executed as security for such issue. And the provisions of the said twenty-eighth section shall apply to such issue of bonds, and to the security which may be given for the payment thereof, and they and the proceeds thereof shall be dealt with as hereby and by the said contract provided.

Issue of bonds in place of land grant bonds under agreement with Government.

To include franchise as well as property of company.

Section 28 to apply.

32. It shall not be necessary to affix the seal of the Company to any mortgage bond issued under the authority of this Act; and every such bond issued without such seal shall have the same force and effect, and be held, treated and dealt with by all courts of law and of equity as if it were sealed with the seal of the Company. And if it is provided by the mortgage deed executed to secure the issue of any bonds, that any of the signatures to such bonds or to the coupons

Facilities for issue of mortgage bonds as to seal and signatures

thereto appended may be engraved, stamped or lithographed thereon, such engraved, stamped or lithographed signatures shall be valid and binding on the Company.

"Working expenses" defined.

33. The phrase "working expenses" shall mean and include all expenses of maintenance of the railway, and of the stations, buildings, works and conveniences belonging thereto, and of the rolling and other stock and movable plant used in the working thereof, and also all such tolls, rents or annual sums as may be paid in respect of the hire of engines, carriages or waggons let to the Company; also, all rent, charges, or interest on the purchase money of lands belonging to the Company, purchased but not paid for, or not fully paid for; and also all expenses of and incidental to working the railway and the traffic thereon, including stores and consumable articles; also rates, taxes, insurance and compensation for accidents or losses; also all salaries and wages of persons employed in and about the working of the railway and traffic, and all office and management expenses, including directors' fees, agency, legal and other like expenses.

Currency in which bonds may be issued.

34. The bonds authorized by this Act to be issued upon the railway or upon the lands to be granted to the Company, or both, may be so issued in whole or in part in the denomination of dollars, pounds sterling, or francs, or in any or all of them, and the coupons may be for payment in denominations similar to those of the bond to which they are attached. And the whole or any of such bonds, may be pledged, negotiated or sold upon such conditions and at such price as the board of directors shall, from time to time, determine. And provision may be made by the by-laws of the Company, that after the issue of any bond, the same may be surrendered to the Company by the holder thereof, and the Company may, in exchange therefor, issue to such holder inscribed stock of the Company,—which inscribed stock may be registered or inscribed at the chief place of business of the Company or elsewhere, in such manner, with such rights, liens, privileges and preferences, at such place, and upon such conditions, as shall be provided by the by-laws of the Company.

Price and conditions of sale.

May be exchanged for inscribed stock, &c.

Bonds need not be registered.

35. It shall not be necessary, in order to preserve the priority, lien, charge, mortgage or privilege, purporting to appertain to or be created by any bond issued or mortgage deed executed under the provisions of this Act, that such bond or deed should be enregistered in any manner, or in any place whatever. But every such mortgage deed shall be deposited in the office of the Secretary of State,—of which deposit notice shall be given in the *Canada Gazette*. And in like manner any agreement entered into by the Company, under section thirty-six of this Act, shall also be depo-

Mortgage deed how deposited.

And agreements under s. 36.

sited in the said office. And a copy of any such mortgage deed, or agreement, certified to be a true copy by the Secretary of State or his deputy, shall be received as *prima facie* evidence of the original in all courts of justice, without proof of the signatures or seal upon such original.

Certified
copies.

36. If, at any time, any agreement be made by the Company with any persons intending to become bondholders of the Company, or be contained in any mortgage deed executed under the authority of this Act, restricting the issue of bonds by the Company, under the powers conferred by this Act, or defining or limiting the mode of exercising such powers, the Company, after the deposit thereof with the Secretary of State as hereinbefore provided, shall not act upon such powers otherwise than as defined, restricted and limited by such agreement. And no bond thereafter issued by the Company, and no order, resolution or proceeding thereafter made, passed or had by the Company, or by the board of directors, contrary to the terms of such agreement, shall be valid or effectual.

Agreement
with bond-
holders, &c.,
for restrict-
ing issues.

Effect
thereof.

37. The Company may, from time to time, issue guaranteed or preferred stock, at such price, to such amount, not exceeding ten thousand dollars per mile, and upon such conditions as to the preferences and privileges appertaining thereto, or to different issues or classes thereof, and otherwise, as shall be authorized by the majority in value of the shareholders present in person or represented by proxy at any annual meeting or at any special general meeting thereof called for the purpose,—notice of the intention to propose such issue at such meeting being given in the notice calling such meeting. But the guarantee or preference accorded to such stock shall not interfere with the lien, mortgage and privilege attaching to bonds issued under the authority of this Act. And the holders of such preferred stock shall have such power of voting at meetings of shareholders, as shall be conferred upon them by the by-laws of the Company.

Company
may issue
guaranteed
or preferred
stock to a
limited
amount.

Not to affect
privileges of
bondholders.

Voting.

EXECUTION OF AGREEMENTS.

38. Every contract, agreement, engagement, scrip certificate or bargain made, and every bill of exchange drawn, accepted or endorsed, and every promissory note and cheque made, drawn or endorsed on behalf of the Company, by any agent, officer or servant of the Company, in general accordance with his powers as such under the by-laws of the Company, shall be binding upon the Company; and in no case shall it be necessary to have the seal of the Company affixed to any such bill, note, cheque, contract, agreement, engagement, bargain or scrip certificate, or to prove that the same was made, drawn, accepted or endorsed, as the case may be, in

Contracts,
bills, &c., by
its agents to
bind the com-
pany.

Proof thereof.

Non-liability of such agents. Pursuance of any by-law or special vote or order; nor shall the party so acting as agent, officer or servant of the Company be subjected individually to any liability whatsoever, to any third party therefor: Provided always, that nothing in this Act shall be construed to authorize the Company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money, or as the note of a bank, or to engage in the business of banking or insurance.

Proviso, as to notes.

GENERAL PROVISIONS.

Reports to Government. **39.** The Company shall, from time to time, furnish such reports of the progress of the work, with such details and plans of the work, as the Government may require.

Publication of notices. **40.** As respects places not within any Province, any notice required by "*The Consolidated Railway Act, 1879*," to be given in the "Official Gazette" of a Province, may be given in the *Canada Gazette*.

Form of deeds, &c., to the company. **41.** Deeds and conveyances of lands to the Company for the purposes of this Act (not being letters patent from the Crown) may, in so far as circumstances will admit, be in the form following, that is to say:—

Form. "Know all men by these presents, that I, A. B., in consideration of paid to me by the Canadian Pacific Railway Company, the receipt whereof is hereby acknowledged, grant, bargain, sell and convey unto the said the Canadian Pacific Railway Company, their successors and assigns, all that tract or parcel of land (*describe the land*) to have and to hold the said land and premises unto the said Company, their successors and assigns for ever.

"Witness my hand and seal, this day of
one thousand eight hundred and

"Signed, sealed delivered } A.B. [L.S.]
in presence of }

"C. D.

"E. F."

Obligation of the grantor. or in any other form to the like effect. And every deed made in accordance herewith shall be held and construed to impose upon the vendor executing the same the obligation of guaranteeing the Company and its assigns against all dower and claim for dower and against all hypothecs and mortgages and against all liens and charges whatsoever and also that he has a good, valid and transferable title thereto.



44 VIC., CHAP. 7.

An Act to amend the Act thirty-sixth Victoria, chapter sixty, respecting the Montreal Harbor Commissioners.

[Assented to 21st March, 1881.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. In order to assist the Montreal Harbor Commissioners in the improvement of the navigation of the St. Lawrence below Montreal, the Act thirty-sixth Victoria, chapter sixty, intituled "*An Act to make further provision for the improvement of the River St. Lawrence between Montreal and Quebec*," is hereby so amended that the rate of interest payable by the said Harbor Commissioners to the Receiver General upon the sums raised under the said Act shall be four per cent. per annum, instead of five; and the provisions in the said Act contained, relating to payments by the said Harbor Commissioners for the formation of a sinking fund, are hereby repealed.

Rate of interest under 36 V., c. 60, reduced, and payments for sinking fund dispensed with.

OTTAWA: Printed by BROWN CHAMBERLIN. Law Printer to the Queen's Most Excellent Majesty.



44 VIC., CHAP. 18.

An Act relating to the Canada Military Asylum at Quebec.

[Assented to 21st March, 1881.]

Preamble.

Recital.

Lease to
Canada
Military
Asylum.

Property
described.

Conditions
of lease.

WHEREAS, by a deed passed in the city of Montreal, on the second of October, eighteen hundred and sixty-two, before J. S. Hunter and another, Public Notaries, William Tyrone Power, Esquire, Companion of the Bath, Commissary General, Controller of Army Expenditure in Canada, acting therein for, on behalf and in the name of Her Majesty's Principal Secretary of State for War, did lease, demise, and cede *à titre de bail emphytéotique*, for the space and term of ninety-nine years, to be computed from the first of December, eighteen hundred and sixty-one, unto the Canada Military Asylum, a body politic incorporated by an Act of the Legislature of the late Province of Canada for the purpose of affording relief to the widows and orphans, resident in that Province, of soldiers in Her Majesty's service, and of discharged soldiers residing in that Province, a certain lot of land in city of Quebec, in the said deed described as follows, that is to say, "all that tract or parcel of land commonly known as the Commandant's Garden, situated on the south-east side of *La Grande Allée*, Saint Louis Road, near number two Martello Tower, in the suburbs of the city of Quebec, Canada East, having a frontage on the said road of three hundred English feet, by the depth which may be found to the fence at the south-east extremity of the said garden, and on which ground it is proposed to erect buildings for the 'Canada Military Asylum;' bounded in front by Saint Louis Road, in rear and to the south-west by property of the Corporation of Quebec, and to the north-east by the property of the War Department; the limits and bounds of which being more particularly shown, edged yellow and lettered A., B., C., D., on the plan hereon endorsed, drawn and signed by Charles Walkem, Surveyor and Draftsman, Royal Engineer Department, dated at Montreal 25th day of April, 1862;" to have and to hold the same for the purpose of erecting thereon a building or buildings to be used and occupied by the said Canada Military Asylum, and for no other purpose; and whereas in and by the said deed it was agreed and declared that Her Majesty's Principal Secretary of State for War should, at all times during

the said term, have the power to resume possession of the said lot of land should it be used for any purpose other than for the actual use and accommodation of the inmates and other persons connected with the said Canada Military Asylum, in which case the said lessees, or others pretending to hold the same, should not be entitled to any compensation for the value of any buildings erected on the said lot, all which buildings should be forfeited with the said lot; and whereas the legal title to the said lot and buildings, subject to the said lease, was revested in Her Majesty the Queen for the purposes of Canada, by the "*Act respecting certain Ordinance and Admiralty Lands in the Provinces of Ontario and Quebec*," passed in the fortieth year of Her Majesty's reign, chapter eight; and by an order made by the Governor General in Council, under the provisions of the said Act, the said lot has been placed in the class of lands not required for the defence of Canada, and which may be sold; and whereas the said lot, and the buildings thereon, have long ceased to be used or required for the purpose for which the said lot was so leased, and have long been, and now are, with the assent of the Crown and of the Canada Military Asylum, in the actual occupation of the "Church of England Female Orphan Asylum," of the city of Quebec, also a body politic incorporated by an Act of the Legislature of the late Province of Canada, and improvements thereon have been made by the said last mentioned corporation, who have paid therefor an annual rent of three hundred and sixty dollars to be applied to the purposes for which the said Canada Military Asylum was incorporated, the said rent being at the rate of six per cent. on the sum of six thousand dollars, and being paid with an ulterior view to the purchase thereof for that sum, being the highest offered in answer to advertisements, and it is desirable that the said lot and buildings should be sold to the said Church of England Female Orphan Asylum for the said sum, and that the pensions heretofore payable by the said Canada Military Asylum should in future be paid by Canada; and whereas, owing to the corporation of the Canada Military Asylum having been largely composed of the holders for the time being of military offices in the garrison of Quebec, as *ex-officio* members, which offices have long since ceased to exist, and by reason of one of the fundamental rules of the said corporation requiring that one-half at least of its general committee of management, also to be largely composed of such *ex-officio* members, should be military, it is impossible to obtain a formal abandonment of the said lease by the said corporation: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Property
revested in
the Crown
under 40 V.,
c. 8, and not
required for
defences.

Lease to
Church of
England
Female Or-
phan Asylum
with agree-
ment for pur-
chase.

Sale to said
F. O. Asylum
desirable, and
technical im-
pediment to
it.

Revocation of
lease men-
tioned in
preamble
authorized.

1. It shall be lawful for the Minister of the Interior, or for the Minister of Militia, at any time after the commencement of this Act, by a deed executed before any public notary at any place in the Province of Quebec, to revoke, cancel, annul, set aside and make void the deed of lease recited in the preamble of this Act; and thereupon the said deed of lease shall become and be null and void, and of no effect whatever, and the lease thereby contracted shall end, and the lot of land thereby conveyed may be resumed by, and the buildings thereon shall belong without indemnification, to Her Majesty the Queen, for the purposes of Canada.

And sale to
F. O. Asylum.

2. The Crown may then, by private contract, sell the said lot of land and buildings to the said Church of England Female Orphan Asylum for six thousand dollars, without resorting to public auction.

Proceeds,
how to be
dealt with.

3. The money arising from the said sale shall be paid over to the Receiver General, and shall form part of the Consolidated Revenue Fund of Canada; and a separate account shall be kept thereof.

Certain pen-
sions charged
on the prop-
erty to be
paid.

4. The pensions payable by the Canada Military Asylum at the date of the deed in the first section of this Act authorized to be passed shall, from that date, be paid, so long as the same respectively shall remain payable according to the Act of incorporation and rules of the Canada Military Asylum, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada.

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45 VIC., CHAP. 7.

An Act to provide for the allowance of drawback on certain articles manufactured in Canada, for use in the construction of the Canadian Pacific Railway.

[Assented to 17th May, 1882.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Preamble.

1. The Governor in Council may, from time to time, make regulations for ascertaining the quantities and values of fish-plates and other fastenings, spikes, bolts, nuts and iron bridges manufactured in Canada and procured by the Canadian Pacific Railway Company, to be used in the original construction of the Canadian Pacific Railway, as defined by the Act thirty-seventh Victoria, chapter fourteen, and also the quantities and values of all telegraphic apparatus manufactured in Canada and procured by the said railway company to be used in the original construction and in the first equipment of a telegraph line in connection with the Canadian Pacific Railway.

Governor in Council may make regulations for ascertaining the value of certain articles procured in Canada by the C. P. R. Company.

2. The Governor in Council may also, from time to time, make regulations for ascertaining the persons in Canada from whom such fish plates and other fastenings, spikes, bolts, nuts, iron bridges and telegraphic apparatus respectively, shall have been procured by the said Company.

And the persons from whom they are procured.

3. The Governor in Council, with the assent of the Treasury Board, and upon such terms and conditions as may be thought proper, may pay over to the person or persons in Canada from whom such articles as aforesaid, manufactured in Canada, have been procured by the said Company, sums of money not exceeding the amount of Customs duty which would have been payable on such articles respectively if imported into Canada at the time the same were so procured by the said Company.

And may allow a drawback to such persons.

4. Provided always, that no money shall be paid over to any person in respect of any such articles before the same

Conditions on which only money shall be so paid.

are actually used by the Company for the purposes aforesaid unless and until the Company bind themselves to repay such money in case such articles be not used for the purposes aforesaid.

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Excellent Majesty.



45 VIC., CHAP. 13.

An Act to increase the amount placed at the disposal of the Governor in Council by the Act 34 Victoria, chapter 8, for paying off claims on the Bank of Upper Canada.

[Assented to 17th May, 1882.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. The amount placed by the Act thirty-fourth Victoria, chapter eight, at the disposal of the Governor in Council out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, for the purpose of paying off any claims on the Bank of Upper Canada, settled and adjusted under the fourth section of the Act thirty-third Victoria, chapter forty, is hereby increased to the sum of two hundred and fifty-five thousand dollars, subject to the conditions of the Act first above cited, which is hereby amended accordingly.

The amount mentioned in 34 V., c. 8, and 33 V., c. 40, increased to \$255,000.

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45 VIC., CHAP. 14.

An Act to provide for the granting of subsidies for the construction of certain lines of Railway therein mentioned.

[Assented to 17th May, 1882.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Subsidies
may be
granted
towards the
construction
of the follow-
ing railways.

1. It shall be lawful for the Governor in Council to grant the subsidies hereinafter mentioned towards the construction of the railways also hereinafter mentioned; that is to say:—

For a railway from Gravenhurst to Cal- lander, both in the Province of Ontario, a subsidy not exceeding \$6,000 per mile, nor exceeding in the whole.....	\$660,000
For a railway from St. Raymond to Lake St. John, both in the Province of Quebec, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	384,000
For a railway from a point on the Inter- colonial Railway at Rivière du Loup or Rivière Ouelle, in the Province of Quebec, or between them, to Ed- mundston, in the Province of New Brunswick, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	240,000
For a railway from Oxford to New Glas- gow, both in the Province of Nova Scotia, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	224,000

Total..... \$1,508,000

On what
conditions
and to what
companies.

The said subsidies to be granted to such companies as shall be approved by the Governor in Council, as having established to his satisfaction their ability to complete the said railways respectively, within a reasonable time, to be

fixed by Order in Council, and according to descriptions and specifications to be approved by the Governor in Council on the report of the Minister of Railways and Canals, and specified in an agreement to be made by the company with the Government (and which the Government is empowered to make), and to be payable out of the Consolidated Revenue Fund of Canada, by instalments on the completion of each ten miles of railway, proportionate to the value of the portion so completed in comparison with the whole work undertaken, such proportion to be established by the report of the said Minister: Provided always, that the granting of such bonuses or subsidies shall be subject to such conditions for securing such running powers or traffic arrangements and other rights, as will afford all reasonable facilities and equal mileage rates to all railways connecting therewith, as the Governor in Council may determine.

Agreement to be made with the company.

How payable, and by what instalments.

Proviso.

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45 VIC., CHAP. 15.

An Act to provide for building certain Branch Lines of Railway from points on the Intercolonial Railway and Prince Edward Island Railway respectively,

[Assented to 17th May, 1882.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Branch of
Intercolonial
Railway from
St. Charles
via Indian
Cove to Point
Lévis.

1. It shall be lawful for the Minister of Railways and Canals to make, build, construct and work a branch line of railway in the Province of Quebec from a point on the Intercolonial Railway at or near the St. Charles Station to a point at or near the Point Lévis Station of the Grand Trunk Railway, the line to run by way of Indian Cove. The branch line of railway when built shall be part of the Intercolonial Railway.

Branch of
P. E. I. Rail-
way to Cape
Traverse or
Carleton
Cove.

2. It shall be lawful for the Minister of Railways and Canals to make, build, construct and work a branch line of railway in the Province of Prince Edward Island, from a point on the Prince Edward Island Railway to be selected by him to a point between Cape Traverse and Carleton Cove. The branch line of railway when built shall be part of the Prince Edward Island Railway.

Act 44 V., c.
25 to apply
to these
branches.

3. For the purposes hereof the Minister of Railways and Canals shall have all the powers and authorities vested in him by "*The Government Railways Act, 1881*," and the said branch lines of railway shall be made, built, constructed and worked in all respects as though the same had been made, built, constructed and worked under the said Act.

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45 VIC., CHAP. 16.

An Act respecting the Windsor Branch of the Inter-colonial Railway.

[Assented to 17th May, 1882.]

WHEREAS the Windsor and Annapolis Railway Com-
pany was incorporated by an Act of the Province of
Nova Scotia, passed in the thirtieth year of Her Majesty's
reign (A. D. 1867), and pursuant to its powers in that be-
half the said Company built and now own and work a line
of railway from Windsor to Annapolis, in the said Province ;

Preamble.
Recital of
case.

And whereas the Government of the Province of Nova
Scotia, at the time of the incorporation of the said Company,
owned a branch line of railway extending from Windsor
Junction to Windsor hereinafter referred to as the Windsor
Branch ; and also a main line of railway (now part of the
Intercolonial Railway) running past Windsor Junction into
Halifax ;

And whereas one of the clauses of the said Company's
charter in effect provided that a traffic arrangement should
be made between the Company and the said Government of
Nova Scotia for the mutual use and employment of their
respective lines of railway between Halifax and Windsor,
and Windsor and Annapolis, including running powers or
for the joint operation thereof on equitable terms ;

And whereas instead of entering into a traffic arrange-
ment under the said clause, and in substitution thereof, the
Government of Canada and the said Company on or about
the twenty-second day of September, one thousand eight
hundred and seventy-one, entered into the agreement, a
copy of which is set forth in schedule A to this Act ;

Schedule A
referred to.

And whereas under another of the clauses of the said Com-
pany's charter, the Governor in Council of the Province
of Nova Scotia was, in effect, empowered by Order in
Council, to assume on behalf of the Province the ownership
of the said Company's line of railway from Windsor to
Annapolis, by paying to the said Company the value of the
same (to be ascertained by arbitration) either in cash or
Provincial debentures, at the option of the said Governor in
Council ;

And whereas the Government of the present Province of
Nova Scotia are now entitled to exercise such power, and

have expressed to the Government of Canada their intention of exercising such power ;

Schedule B
referred to.

And whereas on the twenty-sixth day of May, A.D. 1874, the Act of the Parliament of Canada, set forth in the schedule B to this Act, was passed ;

Schedule C
referred to.

And whereas the Government of Canada, acting in supposed pursuance of the said Act, in the year A.D. 1877 took from the Windsor and Annapolis Railway Company the possession of the said Windsor Branch and handed over the same to the Western Counties Railway Company, which Company received the same under the terms of the agreement set forth in the schedule C to this Act ;

Schedule D
referred to.

And whereas the last named Company failed to complete its line of railway by the first day of October, A.D. 1879, as provided in the said agreement, and have not yet completed the same, and after the said first day of October, A.D. 1879, the Government of Canada retook possession of the said Windsor Branch from the said Company and handed over the same to the Windsor and Annapolis Railway Company under the terms of the agreement set forth in schedule D to this Act ;

Further
recital.

And whereas during the time the Western Counties Railway Company was in possession of the said branch, the Windsor and Annapolis Railway Company commenced an action in the Supreme Court of Nova Scotia against such Company and Her Majesty's Attorney General of Canada, to recover possession of the said branch on the ground that the plaintiff Company was entitled to such possession under the agreement set forth in schedule A to this Act, and that the Government of Canada were not justified by the Act of Parliament set forth in schedule B to this Act, in taking from the plaintiff Company the possession of the said branch and handing over the same to the defendant Company ;

And whereas such proceedings were had in the said action, that by the judgment of Her Majesty upon the advice of the Judicial Committee of Her Imperial Privy Council, the plaintiff Company was declared to be entitled to the possession of the said branch, under the said agreement set forth in the schedule A hereto ;

And whereas the Government of Nova Scotia have made arrangements with *The Nova Scotia Railway Company* (incorporated by Act of the Legislature of Nova Scotia passed on the twenty-seventh day of February, A.D. 1882,) for the consolidation, under one management, of certain lines of railway in the Province, including the Windsor and Annapolis Railway and the Western Counties Railway ;

And whereas it is expedient to facilitate and assist the completion of such arrangements,—which are in the public interests :

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows :—

1. The rights, privileges and powers acquired by the Windsor and Annapolis Railway, under the agreement set forth in schedule A to this Act, were so acquired by that Company as owners of the line of railway from Windsor to Annapolis, and on the transfer of the ownership of such railway to the Government of Nova Scotia, should properly belong to the said Government as owner of the said line, and whenever and so soon as the Government of Nova Scotia shall have exercised its right to assume the ownership reserved to it as hereinbefore mentioned, and as owner has legally taken possession of the said railway, then the Governor may, by Order in Council, put an end to and determine the said agreement and any other rights and interests, if any, which the Windsor and Annapolis Railway Company may have to or in the said Windsor Branch.

Rights of Company and Government of Nova Scotia respectively, declared.

Governor in Council may end the said agreement when Government of N. S. assumes the railway.

2. Whenever the agreement set forth in schedule A has been determined, the Governor may, by Order in Council, transfer and convey to the Nova Scotia Government the absolute ownership of the said Windsor Branch :

And Government of N. S. to become owner.

Provided always, that no such Order in Council shall be passed until the Government of Nova Scotia shall have constructed and finished, or have caused to be constructed and finished, the line of railway from Annapolis to Digby, and shall have procured from the Western Counties Railway Company and delivered to the Government of Canada, a release of all claims and interest (if any) of that Company to the said Windsor Branch, and of all claims and demands (if any) against the Government of Canada, relating thereto or arising thereout, or out of the actions and transactions respecting the said branch.

Proviso : obligations to be previously performed by Government of N. S.

3. The determination of the agreement set forth in schedule A shall not affect any right which either party thereto may have thereunder against the other, or against any other party, as to any matter or thing prior to such determination, all which rights shall continue and may be enforced as if such agreement had not been determined.

Certain rights not to be affected by the termination of agreement.

4. Nothing in this Act contained shall be deemed or taken as admitting that the Windsor and Annapolis Railway Company, or the Western Counties Railway Company, or either of them, have or may have any claim or interest to or in the said Windsor Branch, or any claims or demands against the Government of Canada.

Act not to be construed as an admission of certain claims.

SCHEDULE A.

Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council, on the 22nd September, 1871.

On a memorandum dated 21st September, 1871, from the Hon. Sir George Etienne Cartier, acting in the absence of the Minister of Public Works, reporting,—

That on the twenty-eighth day of July last, a Minute of Council was passed authorizing the Minister of Public Works to make with the Windsor and Annapolis Railway Company (Limited), the traffic arrangements, including running powers over the Government railway in the Province of Nova Scotia, mentioned in the charter of the said Company, and for that purpose to appoint any officer or arbitrator required by the said charter, should the Minister of Public Works and the Company be unable to come to an agreement without arbitration :

That on the eleventh day of August ultimo, with the view of effecting the object of the said Minute of Council, he appointed and deputed Sandford Fleming, Esq., Chief Engineer of the Intercolonial Railway, to confer with the said Windsor and Annapolis Railway Company, or with its authorized agent, and to report what understanding and agreement could be arrived at under authority of the said Minute of Council.

That Mr. Fleming has met and conferred with James Alexander Mann, Esq., Commissioner and Attorney on behalf of the said railway company ; and with the concurrence of Lewis Carvell, Esq., Manager of the European and North American Railway, and of the said Commissioner and Attorney, now reports and approves the articles of agreement hereunto annexed ; which articles of agreement he, the Acting Minister of Public Works, submits for the approval of Your Excellency.

The Committee advise that the said articles of agreement hereunto appended, be approved and ratified by Your Excellency in Council, it being understood that the payment of one-third of the gross earnings be adhered to.

Certified.

(Signed), WM. H. LEE,
Clerk, Privy Council.

To the Honorable
The Minister of Public Works.

Agreement between the Windsor and Annapolis Railway Company (Limited) and the Government of Canada.

Expressions;

1. The several expressions hereinafter referred to, shall, when used in this agreement, have the signification and meaning following :—

SIGNIFICATION OR MEANING.

The Windsor and Annapolis Railway Company, Limited; "The Company."
 The Department of the Government of Canada, which, "The Authorities."
 for the time being, shall have the command or control of the
 Nova Scotia railways;

So much of the Nova Scotia railways, with the branches, "The Trunk Line."
 appurtenances, buildings and conveniences thereto belong-
 ing or attached, as lies between the terminus at Halifax and
 the Windsor Junction (both inclusive), together with any
 extensions into Halifax hereafter to be made;

So much of the Nova Scotia Railway, with the branches, "The Windsor Branch."
 buildings and appurtenances, and other conveniences,
 thereto belonging or attached, as lies between the said
 Windsor Junction and the junction of such railway with
 the Windsor and Annapolis Railway at or near Windsor;

The superintendent, or other officer for the time being, "The Superintendent."
 managing the Nova Scotia railways;

The general manager or other officer for the time being, "The Manager."
 managing the Windsor and Annapolis Railway.

2. The Company shall, except for the purposes of the
 authorities in maintaining the railway and works, have the
 exclusive use of the Windsor Branch, with all station ac-
 commodation, engine sheds and other conveniences (but
 not including rolling stock and tools for repairs) now in use
 thereon.

3. The Company shall also use, to the extent required for
 its traffic, the trunk line, with the station accommodation
 thereon, including engine shed accommodation for five
 engines, water supply, fuel stages, turn-tables, signals, tele-
 graphs, wharves, sidings and other conveniences, but not
 including machine shops and other shops, buildings and
 appliances, for repairs of rolling stock.

4. The Company shall run every day, Sundays excepted,
 between Halifax and Windsor, not less than two trains each
 way, carrying passengers, and shall adopt the same tolls as
 at present levied, or such other tolls as may, from time to
 time, be approved of by the Governor in Council, and shall
 furnish and maintain its own rolling stock.

5. The authorities shall maintain, in workable condition,
 the Windsor branch and the trunk line, including all the
 station accommodation and other conveniences thereon.

6. The Company shall, on the Windsor Branch, employ
 their own station agents, booking clerks, watchmen, porters,
 signalmen, switchmen and other servants for the manage-
 ment of the traffic.

7. The authorities shall, on the trunk line, employ all
 station agents, booking clerks, watchmen, signalmen,
 switchmen and other servants not provided by the Com-
 pany under clause 17.

8. The Company shall not, except with the concurrence
 of the authorities, carry any local traffic between stations on

the trunk line ; but if so carried, they shall charge the same tolls as may be charged by the authorities.

9. The Company shall keep and render to the superintendent an exact detail account of all traffic carried by them over the Windsor Branch and trunk line.

10. The Company shall pay to the authorities monthly, one-third of the gross earnings from all traffic carried by them over the Windsor Branch and trunk line.

11. All accounts between the authorities and the Company under this arrangement shall be adjusted regularly at the end of each calendar month, and the balance struck and paid over in cash, not later than twenty-one days after the end of each month.

12. The authorities and the Company respectively shall, at all reasonable times, have access to, and be allowed to inspect all such books, papers and vouchers in possession of the other of them, as have reference to the accounts between them.

13. All regular trains on the Windsor Branch and trunk line shall be run in the usual way by time-table, which time-table shall, in respect to the trunk line, be prepared by the superintendent on consultation with the manager. The superintendent shall arrange for the arrival and departure of the trains of the Company at the times desired by the manager, or as near thereto as practicable, and in this respect and in every other respect, the superintendent, the officers and servants of the authorities shall conduct the business and work the traffic of the Company and of the authorities with perfect impartiality and fairness.

14. With respect to special and irregular trains, in order to ensure public safety, the Company shall use the trunk line in strict accordance with such rules and regulations as are now in use, or as may hereafter be adopted and enforced by the superintendent. Similar rules shall also be adopted and enforced by the manager on the Windsor Branch, so far as necessary for the guidance of officers and men engaged in the maintenance of the railway.

15. The speed of the Company's trains on the trunk line and Windsor Branch shall not exceed the speed adopted by similar trains on the Government railways in Nova Scotia.

16. The station agent and other servants of the authorities at Windsor Junction shall receive, and as far as practicable, carry out the instructions of the manager in regard to the arrival and departure and working of the Company's trains, from or to the Windsor Branch, and he or they shall record in a book to be kept for that purpose, the numbers and particulars of all engines, carriages, trucks, cars, or other vehicles passing through such junction, and shall make a return of the same daily to their respective owners.

17. The Company shall employ on the trunk line, their own booking clerks, carting agents, carting staff, or such

other staff as they may deem necessary for the booking, collecting, checking, invoicing, receiving, delivering or forwarding their own traffic ; and the authorities shall, so far as practicable, provide suitable and convenient accommodation for such servants and for the accommodation of such business.

18. The Company, in using the trunk line, shall, at all times, observe the regulations and by-laws for the time being in force thereon ; and the authorities in using the Windsor Branch, for the purpose of repairing and maintaining it shall, at all times, observe the regulations and by-laws for the time being in force thereon.

19. In the event of the Company failing to operate the railways between Halifax and Annapolis, then this agreement shall terminate, and the authorities may immediately proceed to operate the railway between Halifax and Windsor, as they may deem proper and expedient.

20. The termination of this agreement under the preceding clause is not to prejudice any rights which the Company may now have.

21. This agreement shall take effect on the first day of January, 1872, and continue for 21 years, and be then renewed on the same conditions, or such other conditions as may be mutually agreed on.

SCHEDULE B.

CHAP. 16.

An Act to authorize the transfer of the Windsor Branch of the Nova Scotia Railway to the Western Counties Railway Company.

[Assented to 26th May, 1874.]

WHEREAS by resolution of the House of Commons, passed on the twenty-third day of May, in the year eighteen hundred and seventy-three, it was resolved : That the Government be authorized to enter into negotiations during the Parliamentary recess with some reliable association or company for the transfer of the railway from Windsor to the trunk line from Halifax to Truro, upon condition that such association or company extend the railway from Annapolis to Yarmouth, subject to the approval of Parliament at the next Session ; and whereas the Western Counties Railway Company, being a company incorporated under the Act of the Legislature of the Province of Nova Scotia, passed during the Session of the year of our Lord eighteen hundred and seventy, having undertaken to build a railway from Annapolis to Yarmouth, have represented that the work

has been undertaken and commenced in view of the provisions of the hereinbefore recited resolution of the House of Commons; and whereas the said Company being desirous of having the said privilege transferred to them, have proposed for the acceptance of His Excellency the Governor in Council, certain terms of transfer to them of the railway from Windsor to the trunk line from Halifax to Truro; and whereas such proposal was, by Order of the Governor in Council of the twenty-second October, eighteen hundred and seventy-three, adopted, subject to the approval of Parliament; and whereas a further proposal in connection with the transfer of the said railway to the said Company was made by the said Company and approved by the Governor in Council, by Order in Council of the thirtieth day of October, in the year eighteen hundred and seventy-three; and whereas it is expedient to approve of the said agreements so respectively entered into and adopted as hereinbefore mentioned: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The agreements hereinbefore referred to, and set forth in the schedules A and B to this Act, being such as were adopted by the Orders of the Governor in Council on the twenty-second and thirtieth days of October, eighteen hundred and seventy-three, and all the matters and things therein contained, are hereby approved and declared to be as effectual to all intents and purposes as if the said agreements had been entered into in pursuance of sufficient authority in that behalf given, before the adoption of such agreements, by Act of the Parliament of Canada.

2. Until arrangements are completed for giving possession to the Western Counties Railway Company of the said Windsor Branch Railway for the purpose of operating it until the completion of their line from Annapolis to Yarmouth, as provided in the agreement or proposal hereinafter recited, it shall be competent for the Government to make such other arrangements as may be necessary by continuing the working of the same by the Windsor and Annapolis Railway Company or otherwise.

SCHEDULE A.

1416. *Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council, on the twenty-second October, eighteen hundred and seventy-three.*

On a memorandum, dated twenty-first October, eighteen hundred and seventy-three, from the Hon. the Minister of

Public Works, submitting the accompanying proposal made by the Western Counties Railway Company of Nova Scotia, and recommending its adoption.

The Committee advise that the accompanying proposal be adopted as recommended, subject to the approval of Parliament.

Certified.

(Signed) W. A. HIMSWORTH,

Clerk.

To the Honorable
The Minister of Justice,
&c., &c., &c.

Proposal made to His Excellency the Governor General in Council by the Western Counties Railway Company, incorporated under an Act of the Legislature of Nova Scotia, passed in the year of our Lord one thousand eight hundred and seventy.

Whereas by a resolution passed by the House of Commons in Parliament assembled on the twenty-third day of May, Anno Domini, eighteen hundred and seventy-three, it was resolved :

That the Government be authorized to enter into negotiations during the Parliamentary recess with some reliable association or company for the transfer of the railway from Windsor to the trunk line from Halifax to Truro, upon condition that such association or company extend the railway from Annapolis to Yarmouth, subject to the approval of Parliament at the next Session ;

And whereas the said Western Counties Railway Company have undertaken to build a railway from Annapolis to Yarmouth ; and

Whereas the said work has been undertaken and commenced in view of the provisions of the above resolution ; and

Whereas the said Company are desirous of having the said railway, in the said resolution mentioned, transferred to them ;

The said Company therefore propose, for the acceptance of His Excellency the Governor General in Council, the following terms of transfer, viz.:—

1st. The said Company will undertake to receive the said railway and appurtenances on the first day of December, Anno Domini, eighteen hundred and seventy-three, and from that date to work it efficiently and keep the same in repair at their own proper costs and charges, collecting, receiving and appropriating to their own use all the tolls and earnings of the same :

2nd. That on the completion of the Western Counties Railway from Yarmouth to Annapolis (now in progress of

construction), the said railway and appurtenances from Windsor to the trunk line, shall be and become absolutely the property of the said Western Counties Railway Company :

3rd. That in consideration of the premises, the said Company hereby engage to prosecute the work of building the railway from Yarmouth to Annapolis, and complete the same with all reasonable despatch.

Dated at Ottawa, D.C., this twentieth day of October, Anno Domini, eighteen hundred and seventy-three.

(Signed) GEO. B. DOANE,
President, W. C. R. Co.
JAS. WENT. BINGAY,
Secretary, W. C. R. Co.

SCHEDULE B.

Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the thirtieth October, eighteen hundred and seventy-three.

On a Memo. from the Hon. the Minister of Public Works, dated twenty-ninth October, eighteen hundred and seventy-three, reporting that he has received from the Western Counties Railway Company of Nova Scotia (through Mr. George B. Doane, their president) a proposal to the following effect :—

1st. That the Western Counties Railway Company shall carry free of charge, all passengers holding Government tickets, on all their passenger trains running between Halifax and Windsor Junction. 2nd. That the said Company or their agents or assigns shall have running powers over the Intercolonial Railway between Halifax and Windsor Junction, with such privileges as have been hitherto granted in the agreement with the Windsor and Annapolis Railway.

The Committee on the recommendation of the Minister of Public Works, respectfully advise that the terms of the above proposal be approved.

Certified.

(Signed), W. A. HIMSWORTH, C.P.C.

SCHEDULE C.

MEMORANDUM OF AGREEMENT, SEPTEMBER, 1877,
Between Her Majesty, represented by the Hon. Minister of Public Works and the Western Counties Railway Company.

WESTERN COUNTIES RAILWAY COMPANY.

SECRETARY'S OFFICE,
YARMOUTH, N. S., September 13, A.D. 1877.

Resolved that the agreement dated the 6th of September, A.D., 1877, and made between Her Majesty the Queen,

represented by the Hon. the Minister of Public Works of Canada, on the one part, and this Company of the other part, be approved, and that the president and secretary be authorized to execute the same in behalf of the Company.

I certify that the above is a true copy of resolution passed this day by the directors of the Western Counties Railway Company.

JAS. WENT. BINGAY,
Secretary.

MEMORANDUM OF AGREEMENT MADE THE SIXTH DAY OF
SEPTEMBER, A. D. 1877,

*Between Her Majesty the Queen, herein represented by the
Minister of Public Works of Canada, of the first part, and
the Western Counties Railway Company, of the other part.*

Whereas by the Act of the Parliament of Canada, thirty-seventh Victoria (1874), chapter sixteen, the Government of Canada may, prior to the completion by the said Company of the railway from Yarmouth to Annapolis, give possession to the said Company of the Windsor Branch of the Nova Scotia Railway mentioned in the said Act;

And whereas the said Company have requested the Government to give possession of the same to them at once;

And whereas the Government have agreed to comply with their request upon the following conditions:—

Now, this agreement witnesseth that Her Majesty, by and with the advice of Her Privy Council of Canada, hereby gives to the Western Counties Railway Company possession of the said Windsor Branch Line, and the said railway company accept possession thereof upon the terms following:—

The Company to work it efficiently and keep the same in repair at their own proper cost and charges, collecting, receiving and appropriating to their own use all the tolls and earnings of the same;

The said railway and appurtenances from Windsor to the trunk line shall be and become absolutely the property of the said Western Counties Railway Company;

That the said Company hereby engage to prosecute the work of building the railway from Yarmouth to Annapolis, and complete the same with all reasonable despatch, and the parties hereto hereby declare that if the same be completed on or before the first day of October, 1879, it shall be considered to have been completed with all reasonable despatch; and it is hereby agreed that if, on or before the said first day of October, 1879, the said railway from Yarmouth to Annapolis be not completed, the said Company will on demand yield up and deliver to Her Majesty, Her successors and assigns, peaceably and quietly, possession of the said Windsor Branch Railway and its appurtenances,

and that Her Majesty may enter into and repossess herself of the said branch railway and its appurtenances, without the let, hindrance or denial of the said Company, their successors or assigns or any other person or persons whomsoever ;

That the said Company shall carry free of charge all passengers holding Government tickets on all their passenger trains running between Halifax and Windsor Junction ;

That the said Company or their agents or assigns shall have running powers over the Intercolonial Railway, between Halifax and Windsor Junction, with such privileges as have been hitherto granted in the agreement with the Windsor and Annapolis Railway.

In witness whereof, the Minister of Public Works of Canada has hereto set his hand and the seal of the Department, and the secretary has countersigned these presents, and the said Company has hereto set its corporate seal, and the same has been countersigned by its president and secretary.

(Signed) A. MACKENZIE.

In presence of

(Signed) H. A. FISSIAULT. }

(Signed) F. BRAUN, *Secretary.*
(L. S.)

(Signed) GEO. B. DOANE,
President, W. C. Ry. Co.

JAS. WENT. BINGAY,
Secretary, W. C. Ry. Co.
(L. S.)

(Signed) W. H. MOODY.

SCHEDULE D.

This Indenture, made the 20th day of November in the year of our Lord one thousand eight hundred and seventy-nine,

Between Her Majesty the Queen, represented herein by the Minister of Railways and Canals of Canada, of the first part, hereinafter referred to as "the Government ;" and the "Windsor and Annapolis Railway Company," hereinafter referred to as "the Company," of the second part ;

Whereas the Government are about to take the necessary steps to recover from the Western Counties Railway Company possession of the railway commonly known and hereinafter referred to as the Windsor Branch, being so much of the Nova Scotia Railway, with the branches, buildings, appurtenances and other conveniences thereto belonging or attached, as lie between the Windsor Junction (Intercolonial Railway) and the junction of said Windsor Branch with the said Company's railway at or near Windsor ; and whereas it is expedient in the public interest that a temporary arrangement should be made with the Company

respecting the traffic over the Windsor Branch, as soon as possession thereof has been taken by the Government.

Now the parties hereto hereby agree as follows :—

1. That as soon as such possession has been taken the Government will permit the Company to use the said Windsor Branch, upon the terms hereof.

2. Either party hereto may terminate this agreement by giving the other thirty days' notice in that behalf, and at the end of such thirty days this agreement shall terminate.

3. The Government will permit the Company, so long as they are entitled to use the said Windsor Branch, under this agreement, to use to the extent required for their traffic, the trunk line of the Intercolonial Railway, which lies between the terminus at Halifax and the Windsor Junction, together with the station accommodation thereon, including engine shed accommodation for five engines, water supply, fuel, stages, turntables, signals, telegraphs, wharves, sidings and other conveniences; but not including machine shops, buildings and appliances for the repairs of rolling stock.

4. The Company shall run every day (Sunday excepted) between Halifax and Windsor, not less than two trains each way carrying passengers, and shall adopt the same tolls as at present levied, or such other tolls as may, from time to time, be approved of by the Governor in Council, and shall furnish and maintain its own rolling stock.

5. The Government shall maintain in workable condition of repair the Windsor Branch and Trunk Line, including all the station accommodation and other conveniences thereon.

6. The Company shall, on the Windsor Branch, employ their own station agents, booking clerks, switchmen, watchmen, porters, signalmen and other servants for the management of the traffic.

7. The Government shall, on the trunk line, employ all station agents, booking clerks, watchmen, signalmen, switchmen and other servants not provided by the Company under clause 17 hereof.

8. The Company shall not, except with the concurrence of the Government, carry any local traffic between stations on the trunk line, but if so carried they shall charge the same tolls as may be charged by the Government.

9. The Company shall keep and render to the chief engineer of Government Railways in operation, an exact detailed account of all traffic carried by them over the Windsor Branch and trunk line.

10. The Company shall pay to the Government by way of commuted tolls monthly, one-third of the gross earnings from all traffic carried by them over the Windsor Branch and trunk line.

11. All accounts between the Government and the Company under this agreement shall be adjusted regularly at the end of each month and the balance struck and paid over

in cash, not later than twenty days after the end of each month.

12. The Company and the Government respectively shall at all reasonable times have access to and be allowed to inspect all such books, papers and vouchers in possession of the other of them, as have reference to the accounts between them.

13. All regular trains on the Windsor Branch and trunk line shall be run in the usual way by time-table, which time-table shall, in respect to the trunk line, be prepared by the chief superintendent of the Intercolonial Railway on consultation with the Company's manager. The Superintendent shall arrange for the arrival and departure of the trains of the Company at the times desired by the said manager, or as near thereto as practicable, and in this respect and in every other respect, the superintendent, the officers and servants of the Government shall conduct the business and work the traffic of the Company and of the Government with perfect impartiality and fairness.

14. With respect to special and irregular trains, in order to insure public safety, the Company shall use the trunk line in strict accordance with such rules and regulations as are now in use or as may hereafter be adopted and enforced by the superintendent. Similar rules shall also be adopted and enforced by the said manager on the Windsor Branch, as far as necessary for the guidance of officers and men engaged in maintenance of the railway.

15. The speed of the Company's trains on the trunk line and Windsor Branch shall not exceed the speed adopted by similar trains on the Government railways in Nova Scotia.

16. The station agent and other servants of the Government at Windsor Junction, shall receive and as far as practicable carry out the instructions of the said manager in regard to the arrival and departure and working of the Company's trains from or to the Windsor Branch, and he or they shall record in a book to be kept for that purpose, the numbers and particulars of all engines, carriages, trucks, cars or other vehicles passing through such junction, and shall make a return of the same daily to their respective owners.

17. The Company shall employ on the trunk line their own booking clerks, carting agents, carting staff or such other staff as they may deem necessary for the booking, collecting, checking, invoicing, receiving, delivering or forwarding their own traffic. And the Government shall, so far as practicable, provide suitable and convenient accommodation for such servants and for the accommodation of such business.

18. The Company in using the trunk line shall, at all times, observe the regulations and by-laws for the time being in force thereon; and the Government in using the Windsor Branch, for the purpose of repairing and main-

taining it, shall, at all times, observe the regulations and by-laws in force thereon.

19. In the event of the Company failing to operate the railways between Halifax and Annapolis, or in the event of the Company failing to pay to the Government the commuted tolls above provided for in accordance with the terms hereof, the Government may immediately terminate this agreement.

20. It is hereby distinctly understood and agreed that this agreement is made without prejudice to, and shall not in any way affect the rights or liabilities of either party as they at present exist with respect to said Windsor Branch; and is made without prejudice to and shall not, except upon the question of damages, affect the litigation now pending in the Supreme Court of Nova Scotia between the Company and the Western Counties Railway Company and Her Majesty's Attorney General for Canada, nor the petition of right filed by the Company in the Exchequer Court of Canada, to which Her Majesty and the said Western Counties Railway Company are parties, nor any other litigation which the parties hereto or the Western Counties Railway Company may engage in with respect to any matters happening prior to the date hereof.

In witness whereof these presents have been signed by the Minister of Railways and Canals of Canada on behalf of Her Majesty, and sealed with the seal of the Department and countersigned by the secretary, and have been sealed with the corporate seal of the Company and countersigned by their president.

The corporate seal of the Company here- to affixed, and this indenture signed by Joseph Brave, of 3 and 4 Great Winchester Buildings, London, Pres- ident of the Company, in the pres- ence of	}	(Signed) JOSEPH BRAVE, <i>President.</i> (L.S.)
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(Signed) W. R. CAMPBELL,
Secretary of the Company.

And of

(Signed) JOHN K. JACOB HOOD,	}	Directors of Company.
" FRANCIS TOTHILL,		

Signed by the Minister and by the Secretary of Railways and Canals, in presence of	}	(Signed) CHARLES TUPPER, <i>Minister of Railways and Canals.</i>
(Signed) H. A. FISSIAULT.		

[L.S.]

(Signed) F. BRAUN, *Secretary.*



45 VIC., CHAP. 17.

An Act to encourage the construction of Dry Docks by granting assistance on certain conditions to Companies constructing them.

[Assented to 17th May, 1882.]

Preamble.

FOR encouraging the construction of dry docks for the reception and repairing of vessels at places where they are required for the convenience of commerce: Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Conditions on which a subsidy may be granted to a company constructing a dry dock.

I. If any incorporated company approved by the Governor in Council as having the ability to perform the work, enters into an agreement with Her Majesty to construct a dry dock, for the reception and repairing of vessels, at a place, and according to a plan and specification approved by the Governor in Council on a report of the Minister of Public Works, as sufficient for the requirements of the public at such place, and to be completed within a convenient time to be limited by such agreement; then, provided the company performs the work according to such agreement, and to the satisfaction of the Minister of Public Works, under the supervision of whose department the work shall be done, the Governor in Council may authorize the payment out of any unappropriated moneys forming part of the Consolidated Revenue Fund, of a subsidy not exceeding two per cent. per annum on the cost of the work during twenty years from the time of its completion and acceptance by the said Minister: Provided, that such subsidy shall not exceed ten thousand dollars per annum, and that the cost on which it shall be calculated shall not be greater than the value of the work as estimated by the said Minister; and the subsidy shall not be payable for any portion of the said twenty years during which the dock shall not be in complete repair and working order.

Amount and duration of subsidy.

Proviso: further conditions of payment.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



45 VIC., CHAP. 24.

An Act to further amend the law respecting Building Societies and Loan and Savings Companies carrying on business in the Province of Ontario.

[Assented to 17th May, 1882.]

WHEREAS it is expedient to make better provision for the increase of the permanent capital of building societies and loan and savings companies carrying on business in Ontario, and for the enabling of such companies to obtain capital from beyond the limits of the Province: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. Any permanent Building Society or Loan and Savings Company carrying on business in the Province of Ontario may, at any time, and from time to time, by resolution to be passed by a vote of not less than two-thirds in value of all the shareholders of the company, given in person or by proxy, at any general or special meeting of the Company duly called for considering the same, increase the fixed and permanent capital of such society or company, by the issue of new stock of such amount and to be divided into shares of such respective amounts and in such currency, and subject to such rules, regulations, privileges and conditions in all respects, and especially with regard to the amount to be paid on the subscription of any such shares and the time at which the balance shall be called up, and to the dividends to be paid thereon, as by the said resolution may be directed, or, if no directions be given, as the Directors may think expedient: Provided always, that such new issue of shares shall be allotted to the then existing shareholders *pro rata*, as nearly as possible without fractions, but in case such new shares be not taken up within thirty days, then the said shares, or remaining shares, shall be disposed of as the directors may, from time to time, determine:

Power to increase capital and shares by a vote of two-thirds in value of shareholders, and to make provisions respecting such increased capital.

Proviso, as to allotment of new shares.

2. Provided further that, with respect to any new shares issued under the provisions of this Act which have not been paid up in full, the holder thereof shall, in respect thereof, be entitled only to as many votes, at general or special meetings of the society or company as the amount paid up

Proviso, as to new shares not paid up in full.

on such new shares held by him would represent in fully paid up shares of the society or company, issued irrespective of this Act.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most
Excellent Majesty.



45 VIC., CHAP. 42.

An Act concerning Marriage with a Deceased Wife's
Sister.

[Assented to 17th May, 1882.]

HER Majesty, by and with the advice and consent of Preamble.
the Senate and House of Commons of Canada, enacts
as follows :—

1. All laws prohibiting marriage between a man and the sister of his deceased wife are hereby repealed, both as to past and future marriages, and as regards past marriages, as if such laws had never existed. Repeal of prohibition.
Retroaction of repeal.

2. This Act shall not affect, in any manner, any case decided by or pending before any court of justice ; nor shall it affect any rights actually acquired by the issue of the first marriage previous to the passing of this Act ; nor shall this Act affect any such marriage when either of the parties has afterwards, during the life of the other, lawfully inter-married with any other person. Cases decided or pending and certain vested rights saved, &c.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most
Excellent Majesty.



45 VIC., CHAP. 43.

An Act further to amend the Act respecting the Trinity House and Harbor Commissioners of Montreal.

[Assented to 17th May, 1882.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Power to commute dues on steamers, &c. in the harbor.

1. The Harbor Commissioners of Montreal are hereby authorized and empowered to commute the dues and the duties payable by steamboats, elevators and other vessels of all descriptions, plying and working within the harbor of Montreal, in the same manner as they are at present authorized to commute the dues and duties payable by steamboats and other vessels plying between Montreal and any other place in the River St. Lawrence.

To restrict the use of certain channels of the River St. Lawrence, by rafts and small vessels.

2. The said Harbor Commissioners are further hereby empowered to make by-laws restricting the use of the main channels of the River St. Lawrence, at the points herein-after mentioned, in whole or in part, as they may deem expedient, by rafts, barges and other vessels of light draught, requiring such barges, rafts and other light draught vessels, except in case of accident or stress of weather or force of current, to make use of the channels of the river other than the deep water channels, and appropriating in whole or in part the said deep water channels to the exclusive use of large vessels,—defining the classes of the vessels to be affected by such by-laws in such manner as they may deem expedient : and the portions of the said River St. Lawrence, in respect of which such restrictive by-laws may be made, are the following, viz. :—

1. The portion of the said river at and near Point-aux-Trembles (*en haut*) ;

2. The portion of the said river lying at, between and near Varennes and Pointe Marie ;

3. The portion of the said river through which the channel known as the Contreccœur channel passes ;

4. The portion of the said river lying between the upper end of the St. Francis bank, in Lake St. Peter, and the English bank in the same lake ;

5. The portion of the said river at and near Port St. Francis ;

6. The portion of the said river at, between and near Batiscan and Cape Charles.

3. The said Harbor Commissioners are also authorized and empowered to make by-laws for the control and management of tow-boats in the Harbor of Montreal. To regulate tow-boats.

4. The said Harbor Commissioners are also hereby further empowered to make arrangements with the several railway companies having communication with the harbor of Montreal, for increased facilities for conveying to and from vessels in the harbor, freight carried by such railways, and for making connections between such railways eastward and westward,—to enforce such arrangements when made, and for that purpose to make by-laws providing for such enforcement thereof. To make arrangements with railway companies for certain purposes.

5. The by-laws hereby authorized to be made may be, from time to time, amended or repealed, and others enacted in their stead, and shall have force and effect, and shall require ratification and confirmation by the Governor in Council, in the manner provided by the Statutes in force respecting the said harbor, with respect to the by-laws thereby authorized to be made and passed ; and such by-laws may, in like manner, provide for penalties to be imposed for the violation of the same. And all dues and penalties imposed by such by-laws, or by or under the authority of "*The Pilotage Act, 1873,*" in respect of any offence within the jurisdiction of the Harbor Commissioners of Montreal, or by any by-law duly made by the said Harbor Commissioners, and in force under the authority of the said "*Pilotage Act, 1873,*" may be recovered in the manner prescribed by the tenth section of the Act of the Legislature of the late Province of Canada, passed in the eighteenth year of Her Majesty's reign, chapter one hundred and forty-three. By-laws and penalties how made and enforced. Pilotage Act of 1873. Act of Province of Canada, 1885.



45 VIC., CHAP. 44.

An Act to make further provision for the improvement of the River St. Lawrence between Montreal and Quebec.

[Assented to 17th May, 1882.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Sum to be raised by loan and advanced for the improvement of the River St. Lawrence between Montreal and Quebec.

1. It shall be lawful for the Governor in Council to raise by the issue of debentures, in the manner prescribed by the Act thirty-sixth Victoria, chapter sixty (except as to the rate of interest, which shall not exceed four per cent. per annum), a further sum not exceeding two hundred and eighty thousand dollars, to be advanced to and applied by the Montreal Harbor Commissioners from time to time in meeting the expenses incurred and to be incurred by them in completing the dredging and deepening of the ship channel of the River St. Lawrence, between Montreal and Quebec, subject to the payment to the Receiver General of interest on the sums so raised and advanced, at the rate of four per cent. per annum.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



45 VIC., CHAP. 45.

An Act to amend and consolidate the Acts relating to the office of Port Warden for the Harbor of Montreal.

[Assented to 17th May, 1882.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Act of the Legislature of the late Province of Canada, passed in the twenty-sixth year of Her Majesty's reign, chapter fifty-two; the Act of the said Legislature, passed in the twenty-ninth year of Her Majesty's reign, chapter fifty-nine; the first and second, and the fifth, sixth, and seventh sections, so far as they relate to the harbor of Montreal, of the Act of the Parliament of Canada, passed in the thirty-sixth year of Her Majesty's reign, chapter eleven; and the Act of the said Parliament, passed in the thirty-seventh year of Her Majesty's reign, chapter thirty-three, are, and each of them is hereby repealed; save and except that the port warden of the harbor of Montreal, the deputy port warden of the said harbor, and the board of examiners appointed under the said last mentioned Act, shall continue to hold their respective offices until their successors have been appointed under this Act

Repeal of Act of Province of Canada, 26 V., c. 52, 29 V., c. 59, secs. 1, 4, 5, 6, 7 of 36 V., c. 11, and 37 V., c. 33.

Exception as to present Warden and deputies

2. There shall continue to be, at the city of Montreal, an officer who shall be designated the port warden of the harbor of Montreal, and such number of deputy port wardens as the Council of the Board of Trade at Montreal shall deem necessary for the business of the harbor; and any power, function, or duty conferred or imposed by this Act upon the port warden, may be effectually exercised and performed by any deputy port warden, under the general supervision of the said port warden.

Officers continued.

And their powers.

3. The Council of the Board of Trade at Montreal shall annually appoint five persons, who shall constitute a board of examiners, who shall examine all candidates for the offices of port warden and deputy port warden, when any appointment to either office requires to be made, and shall report the result of such examination to the said council, whereupon the said council, acting for and on behalf of the

Council Board of Trade to appoint examiners of candidates for office.

Appointment
of Port
Warden.

Board of Trade at Montreal shall recommend to the Governor in Council, for appointment to the office of port warden of Montreal, one of such persons as shall be reported by the said board of examiners as being a fit and proper person to be such port warden; and thereupon such person may be appointed to the said office by the Governor; and the Council of the Board of Trade shall appoint to the office of deputy port warden such person or persons, from among those reported by the said board of examiners as being fit and proper persons for the said office, as the said council shall deem expedient.

And of
deputies.

Council of
Board of
Trade to have
supervision.

4. The Council of the Board of Trade at Montreal shall have the control and supervision of the office of port warden, and if any complaint be made to them of the conduct of any port warden or deputy port warden in the performance of his duties, they shall investigate the same; and if the complaint be against the port warden and is, in the opinion of the said council well founded, and if in their opinion the circumstances require it, the said council shall report their decision to the Governor in Council, who may remove such port warden from office, after the examination of the report, and appoint a successor in the manner hereinbefore provided for, but if such complaint be against any deputy port warden, and the said council shall be of opinion that the same is well founded, such deputy port warden may be removed by the said council in their discretion.

Their action
on com-
plaints

By-laws for
regulation of
office, how to
be made and
confirmed.

5. The board of examiners shall make by-laws, rules and regulations for regulating the office of port warden and the performance of his duties, and of those of the deputy port wardens; and may from time to time repeal and amend such by-laws, rules and regulations; but the same shall have no force or effect until approved by the Council of the Board of Trade,—which shall have the right to confirm the same, either with or without amendment; and a copy of such by-laws, rules and regulations, certified by the secretary of the Board of Trade, shall be *prima facie* evidence in all courts in Canada that the same were duly passed and are in force.

Proof thereof.

Oath of office.

6. The person so appointed to be port warden shall, before acting as such, take and subscribe the following oath of office, before some justice of the peace for the district of Montreal, who is hereby empowered to administer the same:—

Form.

"I, A. B., do solemnly swear that I will faithfully and impartially, to the best of my judgment and ability perform the duties of the office of port warden of the harbor of Montreal, without fear, favor or affection for any person or party whomsoever: "

And after taking and subscribing the said oath of office he shall deposit the same with the secretary of the Board of Trade, who shall be the custodian thereof. And each deputy port warden, upon his appointment, shall take and subscribe, before a justice of the peace, a similar oath, and shall likewise deposit the same with the secretary of the Board of Trade.

Custody thereof.

Deputies' oath.

7. The port warden shall receive no fees whatever, other than such as strictly appertain to the business of his office; all such fees shall be recorded in his books and duly credited to the office; and he shall make a certified annual return to the Council of the Board of Trade at Montreal, of the receipts and expenses of his office, within seven days after the thirty-first day of December in each year.

Fees of Port Warden.

Yearly return thereof.

8. The port warden shall keep an office open on lawful days from seven a.m. till six p.m. during the season of navigation; and from ten a.m. till three p.m. during the remainder of the year; and shall have a seal of office, and the necessary books in which all his acts as port warden, and those of his deputies, with their fees of office, shall be recorded in such manner as the by-laws, in that behalf made and in force, shall direct.

Port Warden's office, books, &c.

9. The master of every sea-going vessel arriving with cargo in the port of Montreal, which has not previously legally broken bulk during the voyage at any port in Canada, shall notify the port warden to be present at the opening of the hatches of such vessel; and immediately on the discovery of any damage to the cargo, shall request him to survey the same, with the view of ascertaining the nature, cause and extent of such damage, before such damaged cargo shall be removed from the place in which it was originally stowed,—though, for the purpose of full and complete investigation, the port warden may cause the cargo so damaged to be discharged and removed to any wharf or warehouse: and should the port warden not be so notified and requested to be present and survey such cargo as aforesaid, and the said cargo or any part thereof should be landed from on board such vessel in a damaged condition, these facts shall be *prima facie* evidence that such damage occurred in consequence of improper stowage or negligence on the part of the persons in charge of such vessel; and unless the contrary be shown by the master or owners of such vessel, the burden of which shall be upon him or them, he or they shall be liable for such damage.

Masters of sea-going vessels arriving in Port to notify Port Warden.

Proceedings if the cargo is found to be damaged.

If the Port Warden is not notified, and the cargo is landed in a damaged condition.

10. Upon notice and request to the port warden by any party interested, the port warden or one of his deputies shall proceed, in person, on board of any ship, steamer or other vessel, for the purpose of examining the condition and

Port Warden on request to inspect stowage or damaged goods;

his duty in such case.

stowage of cargo ; and if there be any goods damaged on board such vessel, he shall enquire, examine into and ascertain the cause or causes of such damage, and make a memorandum thereof, and enter the same in full on the books of his office.

Further provision for examination of damaged goods.

11. Upon notice and request to the port warden by any party interested, the port warden or one of his deputies shall proceed in person to any warehouse, dwelling or wharf, and examine any merchandise, package, material, produce or other property said to have been damaged on board of any vessel, first notifying the master, agent or other representative of such vessel thereof, and shall enquire and examine into and ascertain the nature, cause and extent of such damage, make a memorandum thereof, and record in the books of his office a full and complete statement thereof ; and the port warden shall be entitled to call in one or two experts in his discretion, who shall assist him in such survey, and who shall make and sign a report on the same to be kept in the office of the port warden, and who shall, for such service, be entitled to a fee not exceeding five dollars each—nor shall the total cost of such survey, in any case, exceed fifteen dollars, which shall be paid by the party or parties calling for such survey ; and such cost shall be a lawful charge against any person liable for such damage to the party calling for such survey : Provided always, that such party shall notify the person so liable, his agent or representative (if he be resident or have a place of business in Montreal) of the intention to hold such survey, and of the time and place thereof.

Experts may be called.

Report.

Fee and costs.

Proviso : notice of survey.

Survey of vessel having sustained damage or unfit to proceed on her voyage.

12. The port warden shall, when required by any party interested, survey any vessel within the harbor of Montreal which may have suffered damage or which is asserted by such party to be unfit to proceed on her voyage ; he shall examine the hull, spars, rigging and all appurtenances thereof, shall specify what damage has occurred to them or any of them, and the condition thereof and of such vessel at the time of such survey, and record on the books of the office a full and particular account thereof : he shall call to his assistance, if he deems it necessary in any such survey, one or more carpenters, sailmakers, riggers, shipwrights, or other persons skilled in their profession (who shall each be entitled to a fee not exceeding five dollars for the first survey, and two dollars for each subsequent one on which their services may be required), to aid him in such examination and survey ; but no person shall be chosen as such surveyor or expert who is interested in the result thereof. The port warden shall also, if required, be surveyor of, and report upon the repairs necessary to render such vessel seaworthy : and his certificate that such repairs have been properly made shall be *primâ facie* evidence that the vessel is sea-

Assistance of experts ; their fees, &c.

Report as to repairs required.

worthy : Provided, that in case of a wreck or serious damage he shall call upon the regular surveyor or representative of Lloyd's, or other similar association, if any such person is available, under which such ship carries a certificate of classification, to act with him upon such survey.

Proviso: in case of serious damage.

13. The port warden shall have cognizance of all matters relating to the survey of sea-going vessels and their cargoes arriving in port damaged, and shall make a memorandum thereof, and enter the same in full in the books of his office, and, when requested, shall, on payment of the regular fee, give certificates of such surveys.

Survey of damaged vessels and cargoes.

14. The master of every vessel intending to load grain, wholly or partly in bulk, for any port not within the limits of inland navigation, shall have such vessel inspected and surveyed by the port warden when ready to be, but before it is being dunnaged for such grain; and the port warden, in such case shall ascertain whether such vessel is in a fit state to receive and carry such grain to its destination; he shall record in his books the condition of the vessel; if he finds she is not fit to carry such grain in safety, he shall state what repairs are necessary to render her sea-worthy; and before any such grain is taken on board of such vessel, while the different chambers are being prepared, he shall, from time to time, inspect and survey the same; before the loading of any chamber is commenced he shall see that such chamber is in a fit and proper state and condition to receive grain, and furnished with such shifting boards as he may deem necessary; and he shall see that the boards and planks used for lining and other purposes are properly seasoned; he shall examine the pumps and see that they are properly lined and dunnaged; he shall enter in the books of his office all particulars connected with these surveys, and grant the necessary certificates; and he shall make such orders as he deems fit, in respect of all the matters and things referred to in this section; and if such order be not properly obeyed by the master or person in charge of such vessel, he shall deliver the same in writing to such master or other person in charge; and if not thereupon complied with he shall notify in writing such master or person in charge to desist from loading such vessel, and such vessel shall thereupon be held to be unseaworthy, and unfit for the carriage of grain, and no certificate or clearance shall be granted to her. And he shall enter in the books of his office all his acts, and all particulars connected with the matters and things provided for by this section, and shall grant certificates of the due performance of his directions in respect thereof.

Duty of masters of vessels intending to load grain in bulk, and of Port Warden in such case.

Power to make necessary orders.

How enforced.

Record of proceedings.

15. It shall be the duty of the port warden, when required, to decide if any and what amount of dunnage is

His duties as to dunnage.

necessary below cargo, and also between wheat and other grain, and the cargo to be stowed over it; and his certificate shall be *primâ facie* evidence of the good stowage of the cargo so far as these points are concerned.

Further examination before clearance.

16. The master of every vessel loading at the port of Montreal for any port not within the limits of inland navigation, shall, before proceeding on his voyage, or clearing at the Custom house for the same, notify the port warden, whose duty it shall then be to proceed on board such vessel and examine whether she is in a fit state to proceed to sea or not; if she is found unfit, the port warden shall state in what particulars, and on what conditions only she will be deemed in a fit state to leave, and shall notify the master not to leave the port until the required conditions have been fulfilled; and in case of the master refusing or neglecting to fulfil the same, the port warden shall notify the collector of Customs, in order that no clearance may be granted for the vessel until such required conditions have been fulfilled, and a certificate thereof granted by the port warden or his deputy.

No clearance if found unfit for sea.

No clearance without certificate of Port Warden or his deputy.

17. No officer of Customs shall grant a clearance to any vessel for the purpose of enabling her to leave the port of Montreal for any port not within the limits of inland navigation, unless nor until the master of such vessel produces to him a certificate from the port warden or his deputy, to the effect that all the requirements of this Act have been fully complied with; and if any vessel attempts to leave the port of Montreal without a certificate of clearance, for any port not within the limits of inland navigation, any officer of Customs, or any person acting under the direction of the Minister of Marine and Fisheries, or the chief officer of the river police, may detain such vessel until such certificate is produced to him.

Estimate of value of vessel.

18. The port warden shall, when required, estimate the value of any vessel, being at the time in the harbor of Montreal, when the same is in dispute or otherwise needed, and shall record the same in the books of his office.

Auctioneer selling condemned vessels, &c., to notify Port Warden.

19. It shall be the duty of every auctioneer making a sale of any vessel condemned, or ships' materials, or goods damaged on board a ship or vessel, whether sea-going or of inland navigation, for the benefit of underwriters or others concerned, in the city of Montreal, to file an account of such sale at the office of the port warden within ten days after such sale: no sale for account of underwriters shall take place until after at least two days' public advertisement, in not less than two English and one French newspapers, in the city of Montreal, except in such special cases as herein-after provided for, and such sale shall not be at an hour

earlier than eleven, nor later than three o'clock in the day ; but if the goods or effects to be sold are in such a condition as to be subject to rapid deterioration from delay, the port warden, upon the application of an interested party, may make an order for a sale thereof, after such notice and delay as he may deem for the interest of all concerned,—duly recording such application, and his order thereon, in the books of his office.

Proviso : as to goods liable to deterioration.

20. No goods, vessels or property, alleged to be damaged on the voyage to the said port, shall be sold as damaged for account of underwriters unless a regular survey and condemnation has previously been had ; and the port warden shall, in all such cases, be one of the surveyors.

Survey before sale.

21. If required by all parties interested, in a memorandum in writing signed by them, the port warden shall hear, arbitrate upon, and determine any matter in dispute between the master or consignee of any vessel or ship, and any proprietor, shipper or consignee, of any part of the cargo thereof,—and for that purpose shall have the power of hearing the parties and their witnesses upon oath, and of administering such oath ; and his award in the premises shall be final ; and he shall enter a note of the reference to him, and his award thereon in full in the books of his office.

Arbitration between master and consignee.

Award and record.

22. If the consignee of a vessel or cargo cannot be found or communicated with, the port warden may, in any case in which he thinks it right and necessary so to do, initiate proceedings and hold surveys, and obtain process, as if required by the parties concerned, under the provisions of this Act.

Power to initiate proceedings.

23. All notices, requests or requirements, to or from the port warden, must be given in writing in an intelligible form, and signed by the party making the same, or by some one duly authorized on his behalf, and be delivered within a reasonable time before action is required ; and before proceeding to act in the performance of any duty imposed upon him by this Act, the port warden shall ascertain that notice thereof has been given to the parties interested, and, if not, shall himself cause reasonable notice thereof to be given to them ; and the nature and extent of the notice required in all cases coming under the jurisdiction of the port warden may be, from time to time, regulated by the by-laws, rules and regulations made as hereinbefore provided.

Notices to Port Warden and to parties concerned.

Subject to by-laws.

24. The port warden shall, on the application of any person interested, and on payment of the proper fee, furnish to such person extracts from the books of his office, certified by him to be correct extracts, and sealed with the seal of his said office, respecting any matter recorded therein, and also

Port Warden to furnish extracts from his books, &c.

certified copies of any original documents filed in his office, —which certified copies shall be *prima facie* evidence of the contents and execution of the originals thereof: and all such extracts so certified under the hand of the port warden or his deputy, and under the seal of his office, purporting to contain copies of entries recorded in his books, shall be received as *prima facie* evidence of the existence and contents of such entries, in any court in the Dominion. And the said port warden shall not be required during the season of open navigation to leave the port of Montreal to give evidence before any court, nor for any other purpose whatever, except with the consent of the Council of the Board of Trade; and in case of his evidence being required before any court in the city of Montreal, he shall be entitled to a fee of five dollars for each and every attendance at such court,—nor shall he be required on any one day to absent himself from his office for more than three hours.

How certified
and effect as
evidence.

Port Warden
exempted
from attend-
ing as witness
except in
Montreal,
during navi-
gation season.

To supply
copies of
regulations.

25. The port warden shall, on application, supply once in each year, to every master of a vessel arriving in the port of Montreal, a copy of the by-laws, rules and regulations relating to the office of port warden.

As to appli-
cation of
rules of
Lloyd's.

26. The by-laws, rules and regulations respecting the office of port warden shall declare to what extent the regulations of Lloyd's shall be applicable to the harbor of Montreal, and to what extent the port warden and his deputies shall be governed by such regulations.

Appeals from
decisions of
Port Warden.

Proceedings.

Costs.

27. If any person interested is dissatisfied with any decision of the port warden (except in cases of arbitration), such party may appeal to the Board of Trade, by addressing and delivering to the secretary of the Board of Trade a statement in writing of the matter complained of; and thereupon it shall be the duty of such secretary forthwith to summon a meeting of the said board of examiners, who, or not less than three of them, shall immediately investigate the matter complained of and, after hearing the parties, the determination, or that of a majority of them, made in writing, shall be final and conclusive. The party against whom the examiners shall decide shall pay all the expenses of such appeal, and the examiners shall determine the amount thereof, which shall not exceed ten dollars.

Council of
Board of
Trade may
make tariff
of fees.

28. The Council of the Board of Trade at the city of Montreal may, from time to time, upon the recommendation of the board of examiners or otherwise, establish a tariff of fees to be paid to the port warden, for services performed by him and his deputies, by the masters or owners of sea-going vessels, and by others in respect of whom the duties of the said port warden are required to be performed,—which tariff, being first approved of by the Governor in Council,

shall be in force until repealed or altered by the said Council of the Board of Trade,—as it may be at any time, with the approval or by the order of the Governor in Council ; but such fees shall not exceed the rates hereinafter mentioned, that is to say :—

Not in force until approved by Governor in Council.
Rates limited.

1. For every survey and certificate thereof by the port warden, of the hatches and cargo of any vessel, or of the hull, spars and rigging thereof, or the survey of damaged goods, a fee, including the certificate thereof, not exceeding eight dollars each ;

Surveys.

2 For every valuation of a vessel for average, and every inspection of a vessel intended to load, a fee to be graduated according to the tonnage of such vessel, but not in any case to exceed ten dollars ;

Valuations.

3. For hearing and settling disputes of which the port warden is authorized to take cognizance, and for the fees on appeal to the board of examiners, a sum to be graduated according to the value of the thing or the amount in dispute, but in no case to exceed ten dollars ;

Settling disputes.

4. In addition to the fees hereinbefore authorized to be taken for services performed by the port warden or his deputies, the following fees and charges shall be paid by the shippers of the following articles from the port of Montreal in sea-going vessels, that is to say :—

Other services.

ON FLOUR.

On all flour shipped from the said port, a fee not exceeding seventy-five cents for every thousand barrels, with a proportionate charge for every fractional quantity thereof ;

ON ASHES.

On all ashes shipped from the said port, a fee not exceeding two cents per barrel ;

ON CATTLE AND HORSES.

On all cattle and horses shipped from the said port, a fee not exceeding one and one-half cents per head ;

ON SHEEP AND PIGS.

On all sheep and pigs shipped from the said port, a fee not exceeding one-quarter of one cent per head ;

ON SAWN LUMBER.

On all sawn lumber shipped from the said port, a fee not exceeding one-half cent per thousand feet ;

ON DEALS.

On all deals shipped from the said port, a fee not exceeding two cents per Petersburg standard hundred ;

ON STAVES.

On all puncheon and West India staves shipped from the said port, a fee not exceeding eight cents per mille, and on all pipe staves a fee not exceeding thirty cents per mille ;

PHOSPHATES.

On all phosphates shipped from the said port a fee not exceeding one cent per ton weight ;

ON OTHER ARTICLES.

Natural productions.

On other articles not herein enumerated, being natural productions, two cents per ton weight, or ton measurement ;

Other non-enumerated articles.

On all other articles shipped from the said port, and not hereinbefore enumerated, a fee not exceeding six cents per ton weight or ton measurement, and the same fee on all quantities or parcels of such other articles exceeding in the whole shipment half a ton, though not amounting to one ton weight or measurement ; but no fee shall be charged in respect of such other articles for any shipment not amounting to half a ton, or for any fractional part of a ton in any shipment exceeding one or more tons ;

Fees apportioned for particular services must be approved by the Governor in Council ;

Governor in Council may alter fees.

The foregoing maximum rates, comprehending the port warden's fees for the incidental proceedings, certificates and copies, may be altered and apportioned, and the particular service distinguished and the fees therefor assigned, and the person by whom the same shall be paid, may be indicated in such way as the Council of the Board of Trade may from time to time appoint ; and all rates so established shall be subject to the approval of the Governor in Council, who shall have power from time to time to reject or modify and alter such fees and rates : Provided however, that the said Council of the Board of Trade may, from time to time, reduce any one or all of the fees and rates before mentioned, without obtaining the sanction of the Governor in Council as aforesaid.

And the Council of Board of Trade, without Governor's consent.

Remuneration of Port Warden and deputies and office expenses to be fixed by Board of Trade and paid out of receipts.

29. The Council of the Board of Trade shall fix the remuneration of the port warden and that of his deputies, and his expenses of office or otherwise, out of the receipts of his office, as it may, from time to time, determine ; and for any period during which the port warden may be paid by salary, the balance, if any, which may appear by his certified annual return to be in his hands, over and above his salary, that of his deputies and his expenses of office, shall be forthwith paid by the said port warden to such person as the Council of the Board of Trade shall depute to receive the same ; and the said port warden and his deputies, when required so to do, shall furnish such securities for the faith-

Security to be given by Port Warden and deputies.

ful performance of the duties of their respective offices as the Council of the said Board of Trade shall deem adequate.

30. The penalty for every infringement or breach, on the part of a master or owner of a vessel, of the fourteenth section of this Act, shall be eight hundred dollars; and for every infringement or breach of the twentieth section thereof, shall be twenty dollars:

Penalties for contravention of Act.

2. Every such penalty as aforesaid shall be recoverable in the manner prescribed by "*The Interpretation Act*" in cases where penalties are imposed, and the recovery not otherwise provided for: and the whole of any pecuniary penalty imposed by and collected under this Act shall belong to the Crown, and shall be paid over to the Receiver General, on receipt of the same, by the Council of the Board of Trade, and shall be appropriated in such manner as the Governor in Council may direct; but payment of such penalties shall not, in any way, diminish the liability of any ship, ship-master or other person, for the consequences of any thing done by him or his representatives in contravention of this Act.

How to be recovered and applied.

Further liability of offender.

31. The Council of the Board of Trade shall yearly, within seven days after the first day of January, transmit to the Minister of Marine and Fisheries, a report of the business done in the office of the port warden, and of his receipts and expenditure in respect thereof, and of all moneys which may have been received from time to time by the board, as arising from fees of office, and then in the hands of the said board, showing also how such moneys are invested, in such manner and form as the Minister may direct; and for that purpose shall have power from time to time to call upon the port warden to make up and furnish to the said Council, such returns, accounts and information as the said Council may require.

Yearly report to Minister of Marine and Fisheries.

He may require further information.

32. The proceeds of the fees and rates collected under this Act, shall be applied by the said Board of Trade solely to the purposes mentioned in the twenty-ninth section of this Act, and other purposes necessary and incident to the efficient working of this Act, as shall also any money now or hereafter in the hands of the said board, arising from rates and fees under this Act, or the Acts repealed by it, or any interest on such moneys; and if at any time it should become apparent that the proceeds of the rates and fees herein mentioned, with the interest on any such moneys as aforesaid in the hands of the board, are and probably will be more than sufficient for the purposes aforesaid, it shall be the duty of the said board to reduce any or all of the said rates and fees accordingly, and again to increase them or any of them, with the sanction of the Governor in Council, if they become insufficient for the said purposes.

Application of proceeds of rates and fees, for the purposes of this Act only.

Duty of Board in case of excess.



45 VIC., CHAP. 47.

An Act further to amend the Acts to provide for the improvement and management of the Harbor of Quebec.

[Assented to 17th May, 1882.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Sum to be raised as provided in 36 V., c. 62, and advanced to the Quebec Harbor Commissioners to complete certain works.

I. It shall be lawful for the Governor in Council to raise, by the issue of debentures, in the manner prescribed by the Act thirty-sixth Victoria, chapter sixty-two (except as to the rate of interest, which shall not exceed four per cent. per annum), a further sum not exceeding three hundred and seventy-five thousand dollars, to be advanced from time to time to the Quebec Harbor Commissioners, to enable them to construct the cross-wall and lock necessary to render available as a wet dock the dock constructed by them at the mouth of the River St. Charles, and to pay the balance of the cost of the said dock, subject, as to the payment to the Receiver General of interest on the sums so advanced at the rate of four per cent. per annum and a sinking fund of one per cent. per annum, to the provisions of the Act above cited: Provided always, that the plans for such cross-wall and lock, after being prepared by the engineers of the Public Works Department, shall be subject to the approval of the Governor in Council, and that public tenders for the said works shall be called for, and the contract awarded by the Governor in Council.

Proviso: for preparation and approval of plan, and as to contract for the work.

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45 VIC., CHAP. 49.

An Act to amend the Act thirty-fifth Victoria, chapter forty-two, respecting the appointment of a Harbor Master for the Port of Halifax.

[Assented to 17th May, 1882.]

IN amendment of the Act passed in the thirty-fifth year of Her Majesty's reign, intituled : "*An Act to provide for the appointment of a Harbor Master for the port of Halifax*," Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. The seventh section of the said Act is hereby repealed and the following is substituted therefor, and shall be read and have effect as the seventh section of the said Act :—

"7. The harbor master for the port of Halifax shall be remunerated for his services solely by the fees, or the portion hereinafter mentioned of the fees, which he may, from time to time, be authorized, by the rules and regulations to be made as hereinbefore provided for, to collect in respect of all ships over twenty tons register, entering the port of Halifax, but which shall not at any time exceed the following rates, that is to say :—

For every ship over twenty tons and not over fifty tons register, fifty cents ;

For every ship over fifty tons and not over one hundred tons register, one dollar ;

For every ship over one hundred tons and not over two hundred tons register, one dollar and fifty cents ;

For every ship over two hundred tons and not over three hundred tons register, two dollars ;

For every ship over three hundred tons and not over four hundred tons register, two dollars and fifty cents ;

For every ship over four hundred tons and not over five hundred tons register, three dollars ;

For every ship over five hundred tons and not over seven hundred tons register, four dollars ;

For every ship over seven hundred tons register, five dollars ;

Ships of twenty tons register and under shall not be subject to any duty under this Act, nor ships engaged in trading or plying between ports and places in the Dominion."

Preamble.

35 V., c. 42.

Sect. 7 repealed.

New Sect. 7. Remuneration of Harbor Master out of fees.

Rates of fees.

Small ships and coasters exempted.

Sect. 9
repealed.

2. The ninth section of the said Act is hereby repealed and the following is substituted therefor, and shall be read and have effect as the ninth section of the said Act :—

New Sect. 9.
When the
said fees shall
be payable.

“ 9. Such fees as aforesaid shall be payable only once in each calendar year (that is, the year commencing on the first day of January and ending on the last day of December), on any ship not exceeding one hundred tons registered tonnage, and not more than twice in each calendar year on any ship exceeding one hundred tons registered tonnage ; that is to say, on any ship of one hundred tons or under, registered tonnage, the fee shall be payable on her first time of entering the port of Halifax during any calendar year, but not on any subsequent time of her entering the said port during the same calendar year ; and on any ship of more than one hundred tons registered tonnage, the fee shall be payable on the first and second times of her entering the port of Halifax during the calendar year, but not on any subsequent time of her entering the said port during the said calendar year ; and the collector or principal officer of Customs thereat shall not permit any ship on which fees are payable as aforesaid to clear or report outwards at the Custom house until the master thereof produces to him a certificate of the payment of fees under this Act.”

On ships not
over 100 tons.

On ships over
100 tons.

No clearance
until fees
paid.

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45 VIC., CHAP. 50.

An Act to amend the Act respecting the Harbor of North Sydney, in Nova Scotia.

[Assented to 17th May, 1882.]

IN amendment of the Act passed in the forty-second year of Her Majesty's reign, chaptered thirty, and intituled, *"An Act respecting the Harbor of North Sydney, in Nova Scotia:"* Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Commissioners of the Harbor of North Sydney, aforesaid, appointed by the Governor in Council under and by virtue of the said Act hereby amended, are hereby made and constituted a body corporate and politic by the name of "The Harbor Commissioners of North Sydney," and by that name may sue and be sued, may have a common seal, and may, by and with the sanction and consent of the Governor in Council, purchase, acquire and hold land and lands covered by water, rights, privileges, easements and appurtenances in connection with lands, for them and their successors in office, within the limits of said harbor designated in section thirteen of the Act aforesaid, as they shall deem necessary and requisite, for the sole purpose of the maintenance and improvement of the said harbor, the erection of breakwaters or ballast wharves, and the carrying out of the provisions of said Act.

The Harbor Commissioners appointed under 42 V., c. 30, constituted a corporation.

Powers.

Local limits within which powers may be exercised.

2. The said Commissioners may take, use, occupy and hold, but not alienate, so much of the beach or beaches of said harbor as may be required for the carrying out of the provisions of said Act, paying therefor as provided in this Act, and subject to the sanction and consent of the Governor in Council.

Beach may be used.

3. In case of disagreement between the said Harbor Commissioners and the owners, proprietors or persons interested in the lands, lands covered with water, or rights, privileges, easements or appurtenances in connection therewith, which shall be taken, used, occupied, held, prejudiced or injured by the said Harbor Commissioners under the provisions of this Act, as to the price or value

Arbitration as to compensation for lands taken.

Arbitrators,
how chosen.

Award to be
final.

Costs to be
paid by Com-
missioners.

In case of
failure to
agree on
arbitrators,
Judge to
command
sheriff, co-
roner or
other person
to summon a
jury to assess
compensa-
tion.

Award of
jury final.

Costs to be
paid by Com-
missioners.
Provision in
the case of
persons dis-
ability.

thereof, or as to the compensation for the injury or damage by them respectively sustained, then such price, value or compensation shall be determined by three arbitrators, one to be chosen by the said Harbor Commissioners and one by the owner or owners or persons interested as aforesaid,—which two arbitrators so chosen shall choose a third arbitrator; and in case the arbitrators so chosen shall not agree in such choice within ten days after their appointment, then and in such case it shall and may be lawful for any one of the judges of the Supreme Court of the Province of Nova Scotia, upon the application of said Harbor Commissioners, or owners or persons interested, to appoint a third arbitrator; and the award of the said arbitrators or any two of them shall be final and conclusive in the matter referred to them; and the costs of such arbitration shall be paid by the said Harbor Commissioners; and in case the said Harbor Commissioners, or any person or persons interested as aforesaid, shall decline making any such agreement or appointment of arbitrators as aforesaid, then and in every such case the other party may make application to one of the said judges of the said Supreme Court, stating the grounds of such application, and such judge is hereby empowered and required, from time to time, upon such application, to issue a writ or warrant to the sheriff of the County of Cape Breton in the said province, or in case of said sheriff being a party interested, then to a coroner of the said county or to some other person who may be disinterested, commanding such sheriff, coroner or person disinterested, forthwith to summon a jury of five disinterested freeholders within said county,—which jury so summoned upon their oaths (all which oaths, as well as the oaths to be taken by any person or persons who shall be called upon to give evidence, shall be administered by the officer or person summoning such jury) shall enquire of, assess and determine the distinct sum or sums of money or annual rent to be paid for the price or value, or compensation for the use, or damage or injury sustained by the owner or owners or persons interested in such property as aforesaid; and such verdict or award of such jury shall be returned and filed in the office of the Prothonotary of the Supreme Court at Sydney in the county of Cape Breton aforesaid, and shall be final and conclusive between the parties; and the costs and expenses of such proceedings, to be taxed and allowed by a judge of said Supreme Court, shall be paid by said Commissioners; and when the lands of an infant, feme covert, idiot or lunatic, or land under mortgage is or are required for the purposes of this Act, and the said Act hereby amended, or may sustain any damage or injury by reason of anything done by said Harbor Commissioners under the provisions of this Act, and if the said Harbor Commissioners cannot agree as to the price or value or compensation to be paid in respect thereof, with the legal representatives of such parties as aforesaid, or with the

mortgagor with the consent of the mortgagee or mortgagees, the said Harbor Commissioners, or the legal representatives of the party or parties interested as aforesaid may apply to any one of the judges of the said Supreme Court for a jury, as hereinbefore provided,—which jury and the officer or person appointed to summon it shall have and exercise the power hereinbefore mentioned for the purposes aforesaid; and in the case of mortgaged premises, the price or value or compensation found by such jury shall be paid to the mortgagee or mortgagees according to priority, and shall be by him or them credited on such mortgage, and the lands so taken shall be held to be thereupon released from any such mortgage or mortgages; and in case any such infant, idiot or lunatic has no legal representative, then the judge of the said Supreme Court in Equity shall, upon application setting forth the facts, appoint a representative for such infant, idiot or lunatic for the purposes of this Act; and the value or price or damage assessed or determined by a jury, as hereinbefore provided, shall be paid to the representative so appointed for the benefit of such infant, idiot or lunatic; and the said Harbor Commissioners shall pay all costs, charges and expenses in connection with such proceedings

Or of mortgaged premises.

Judge in Equity to appoint representative to such parties when they have none.

Commissioners to pay costs.

4. It shall be lawful for the said Harbor Commissioners to borrow, either in the Dominion of Canada or out of it, and in sterling money or currency, and at such legal rate of interest as the said Commissioners may, from time to time, agree upon, on mortgage or other security, such sums of money, from time to time, as shall not exceed in all the sum of four thousand dollars, for the sole purpose of carrying out the provisions of this and the Act hereby amended; and for securing the repayment of the money so borrowed, with interest, it shall be lawful for said Harbor Commissioners to mortgage, encumber and assign the real estate, works, tolls and revenues of said harbor.

Borrowing powers not to exceed \$4,000, and for purposes of Act only.

Harbor property may be mortgaged as security.

5. All property acquired and held by the said Harbor Commissioners shall be held by the said corporation in trust for all the purposes for which the said corporation is created.

All property to be held in trust for corporate uses.

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45 VIC., CHAP. 51.

An Act relating to the Harbor of Saint John, in the Province of New Brunswick.

[Assented to 17th May, 1882.]

Preamble.
Recital of
case.

WHEREAS under the charter of the city of Saint John, in the Province of New Brunswick, granted by His late Majesty King George the Third, A. D. 1785, the harbor of Saint John, within the limits of the said city, is vested in the city corporation of Saint John, and the said city corporation are also the owners of certain water-lots and wharf property; and whereas by an Act of the Provincial Legislature of New Brunswick, passed in the thirty-eighth year of the reign of Her present Majesty, chapter ninety-five, the city corporation of Saint John are authorized to contract and agree for the transfer of the harbor property and privileges as mentioned and referred to in the first section of the said Act, to commissioners to be appointed as the Corporation of the Harbor Commissioners of Saint John, and the Common Council of Saint John have agreed to make such transfer for the sum of five hundred thousand dollars, to be paid and applied as set forth in the said Act; and whereas it is expedient to constitute the Corporation of the Harbor Commissioners of Saint John for the management and improvement of the said harbor, and that the said harbor, upon transfer by the mayor, aldermen and commonalty of the city of Saint John, to the Commissioners constituted under this Act, should become and thenceforth be one of the public harbors of Canada: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Corporation
of the Har-
bor Commis-
sioners of St.
John consti-
tuted.

1. The Corporation of the Harbor Commissioners of Saint John, in the Province of New Brunswick, shall be constituted and consist of five members, three of whom, that is to say, the chairman of the Commissioners and two other members shall be appointed by the Governor in Council, one by the Common Council of the city of Saint John, and one by the Council of the Saint John Board of Trade; and the persons so appointed under this Act, and their successors, shall be and are hereby declared to be a body corporate and politic in deed and in name, by the name of "The Harbor Commissioners of Saint John," and by that name shall have all

Their corpor-
ate name and
general
powers.

the general powers made incident by law to corporations, with power to receive, take and hold the harbor property and privileges that may be transferred to them by the mayor, aldermen and commonalty of the city of Saint John as herein mentioned, and to purchase and acquire, have, hold, enjoy, possess and retain also other immovable property for the purposes of this Act; and to build or acquire, hold and possess such steamboats, dredges, scows, and other vessels as they may deem necessary for the efficient discharge of their duties under this Act, and to take out registers for such vessels in their corporate name and capacity, and to dispose of the same as well as of the said immovable property as often as they may see fit so to do; and to do all other things necessary to carry out the purposes of this Act.

May build
and hold
vessels.

2. Every appointment by the Governor in Council under this Act shall be made by an instrument under the Great Seal of Canada, and the person so appointed shall hold office during pleasure; and any such appointment shall be made at any time after the passing of this Act, to take effect on and after the time at which this Act comes into operation.

Appoint-
ments by
Gov. in C. to
be under
great seal.

3. Every appointment made by the Common Council of the city of Saint John under this Act shall be by warrant under the common seal of the City Corporation of Saint John; and the first appointment shall be made within thirty days after the day upon which this Act comes into force, and every person so appointed shall hold office during the pleasure of the Common Council; and every such appointment shall be certified to the Minister of Public Works. In case the said Common Council refuse or, during thirty days, neglect to make such appointment as in this section provided, or at any time thereafter in case of a vacancy, refuse or, for thirty days, neglect to fill any such vacancy, the Governor in Council may appoint or may fill such vacancy.

By Common
Council of St.
John under
common
seal.

And certified
to Min. of
Public
Works.
Case of refusal
or neglect
to appoint
provided for.

4. The Council of the Saint John Board of Trade shall, within thirty days after the day upon which this Act comes into force, elect one person to fill the office of Harbor Commissioner, and the person having the majority of votes of the members of the council personally present at the meeting at which the election is had, shall be held to be duly elected, and the secretary of the board shall give him a certificate of his election and shall also certify the same to the Minister of Public Works; and any person so elected shall hold office during the pleasure of the Council of the said Board of Trade. In case the Council of the Saint John Board of Trade refuse or, during thirty days, neglect to make such appointment as in this section provided, or at any

Election of
Commission-
ers by St.
John Board of
Trade.

Case of refusal
or neglect
to elect pro-
vided for.

time thereafter in case of a vacancy refuse or, during thirty days, neglect to fill any such vacancy, the Governor in Council may appoint or may fill such vacancy.

How vacancies shall be filled.

5. Every vacancy happening from time to time among the members of the said corporation appointed by the Governor in Council, not being members so appointed by reason of the refusal or neglect of the Common Council or of the Council of the Saint John Board of Trade, or of refusal when appointed to accept office, shall be filled up by the Governor in Council; and every other vacancy may be filled by the appointment of a member of such Harbor Commission by the body by whom the member occasioning the vacancy was or might have been appointed—such appointment being made within thirty days after the occurrence of the vacancy. The name of the person appointed to fill such vacancy shall forthwith after his appointment be certified to the Minister of Public Works.

Certificate to Minister.

Quorum.

6. Any three members of the Corporation of the Harbor Commissioners of Saint John shall be a quorum, and the majority of any quorum, the chairman being one, may exercise the powers of the corporation; and the existence of a vacancy or vacancies among the members shall not prevent or affect the exercise of the said powers, provided there be a quorum as aforesaid.

Vacancies not to affect proceedings by a quorum.

Members not to be contractors with corporation.

7. No member of the said corporation shall be directly or indirectly interested in any contract for work, supplies or materials of any description whatever, furnished to the said corporation.

\$750,000 to be raised by Government.

8. To enable the said Corporation of the Harbor Commissioners of Saint John, to purchase, acquire, obtain and receive the harbor property and privileges agreed to be transferred to them by the City Corporation of Saint John as hereinbefore mentioned, for the purchase and acquisition of other wharf property as hereinafter mentioned, and for the extension and improvement of the said harbor, it shall be lawful for the Governor in Council to raise by the issue of debentures bearing interest payable half-yearly at the rate of four per cent. per annum, and redeemable in forty years, the sum of seven hundred and fifty thousand dollars:

Conditions.

\$500,000 to be advanced to Commissioners for acquiring harbor property, &c., from corporation of St. John.

Out of this sum so raised the Governor in Council shall advance and pay to the said Harbor Commissioners, in the first place, the sum of five hundred thousand dollars to enable them to complete the acquisition of the harbor property, rights, rents and privileges to be conveyed to them by the said mayor, aldermen and commonalty of the city of Saint John, to be paid to the chamberlain of the city of Saint John, as set forth in the Act of the Provincial Legislature of New Brunswick, referred to in the preamble of this

Act; such property to be described by metes and bounds in the deed and conveyance thereof, and to be as shown by the red lines on a plan prepared by Hurd Peters, City Engineer, in accordance with the agreement lately made by the Common Council of Saint John, by resolutions relating thereto,—which plan is filed at the office of the common clerk of the city of Saint John:

Description of property to be acquired.

Upon the registering of the deed, and conveyance of such harbor property and privileges from the mayor, aldermen and commonalty of the city of Saint John to the said Corporation of the Harbor Commissioners of Saint John, in the office of the registrar of deeds in and for the city and county of Saint John, all the property conveyed by the said deed, and all rights, rents, powers, and privileges of the mayor, aldermen and commonalty of the city of Saint John, in or relating to the harbor of Saint John, except only as reserved and expressed in the said deed, shall vest in the said Harbor Commissioners of Saint John and their successors absolutely:

Property to be vested in Commissioners.

The remainder of the sum so raised shall be advanced from time to time to the said Harbor Commissioners to meet payments to be made for the purchase and acquisition of other wharf property as hereinafter provided, and on account of the improvements or extension of the said harbor, and the carrying out of the provisions and purposes of this Act,—such improvements having been previously sanctioned by the Governor in Council on the report of the Minister of Public Works:

Advance of remaining sum for improvements.

Upon the payment or advance of any sum by the Government, under the foregoing provisions, the said corporation shall deposit with the Receiver General their own bonds in favor of Her Majesty, for the Dominion of Canada, for the same amount, in such form as he may approve, bearing interest at the rate of four per cent per annum:

Corporation to deposit their bonds to an equal amount with Receiver General.

The interest on the bonds given by the said corporation for sums paid or advanced for the purposes aforesaid shall be payable by the said corporation from the time of such payment or advance:

Interest on such bonds.

The said interest shall be payable by the said corporation out of the income of the said corporation from the tolls, rates, dues and other sources of income under this Act, and shall be the first charge thereon, and paid out of the same in preference to all other charges whatsoever, after defraying the expenses of collecting the same.

Out of what funds payable.

9. All property acquired and held by the Harbor Commissioners of Saint John, under this Act, shall be held to have been and is hereby declared to be transferred to and vested in, and to be the property of the corporation of the said Harbor Commissioners, in trust for all the purposes for which the said corporation is created, as fully and effectually to all intents and purposes as if the several pro-

Properties to be held in trust by Commissioners.

Proviso, for consent of Min. of Public Works.

Gov. in C. may authorize acquisition of certain property by Commissioners.

Provision if they cannot agree with owner as to price.

Appointment of arbitrators to fix such price.

Award of two final.

Provision in case of failure by either party to appoint.

Price to stand in place of the property.

perties were absolutely vested in them by the express provisions of this Act: Provided always, that the consent of the Minister of Public Works to the purchase of any real estate shall be previously obtained by the said Commissioners.

10. The Governor in Council may, from time to time, until all the wharf and beach property in the harbor of Saint John is acquired by the Commissioners, authorize the Commissioners to purchase or acquire any wharf or beach property in the harbor of Saint John not then owned by them, or any part thereof, and thereupon it shall be the duty of the Commissioners to acquire the same, by purchase if possible; but in case they cannot agree with the owner as to price, they shall lay off by metes and bounds the property to be acquired, and shall deposit of record, in the office of the registrar of deeds, wills, &c., for the city and county of Saint John, a plan and description of the property to be acquired, signed by the chairman of the Commissioners; and by such deposit the said property shall thereupon become and remain vested in the Commissioners, and the price or compensation money to be paid therefor shall be determined as follows: the said Commissioners and the owner shall each appoint a disinterested arbitrator, and the two arbitrators so appointed shall name a third, also disinterested, and the three arbitrators, after being sworn by or before any judge of the Supreme Court, or a county court in the said Province, to perform their duty honestly and impartially, and having given each other notice of the time and place of their meeting, shall determine such price; and their decision, or that of any two of them, shall be final, and the Commissioners shall, forthwith after the decision, pay to the owner the amount awarded to him, with interest at the rate of six per centum per annum from the time the plan and description are deposited:

2. In case either the Commissioners or the owners shall fail, within thirty days after the notice to the owner of the filing of the plan and description, to appoint an arbitrator, or in case any two arbitrators appointed hereunder fail within thirty days after the appointment of the one last appointed to appoint a third, then, in either of such cases, it shall be lawful for the Minister of Public Works, in the place of the person or persons otherwise entitled, to appoint an arbitrator or arbitrators, as the case may be, so that the board of arbitrators shall consist of three persons,—any two of whom shall have power to act:

3. The compensation money, awarded by the arbitrators or any two of them, shall stand instead of the property acquired, and any claim or incumbrance upon such property shall, as respects the Commissioners, be converted into a claim to such compensation money, or to a proportionate amount thereof, and shall be void as respects the property itself, which shall, by the fact of the depositing of the plan

and description, become and be absolutely vested in the Commissioners :

4. If the owner cannot be found, or is unknown to the Commissioners, or if the Commissioners have reason to fear any claim or incumbrance, or if, for any other reason, they shall deem it advisable, they shall pay such compensation money into the Supreme Court of New Brunswick, with interest thereon for six months, and shall deliver to the clerk of the court a certified copy of the plan and description :

Provision in case the owner cannot be found, or of incumbrance.

5. A notice in such form and for such time as the court may appoint, shall be published in a newspaper published in the city of Saint John, notifying all persons entitled to the property or any parts thereof, or representing or being the husbands of any party entitled, or claiming to hold or represent incumbrances thereon, or interests therein, to file their claims to the compensation money or any part thereof; and all such claims shall be received and adjudged upon by the court; and the said proceedings shall forever bar all claims to the compensation money or any part thereof, including claims in respect of dower, as well as claims in respect of mortgages or incumbrances upon the same; and the court shall make such order for the distribution, payment or investment of the compensation money or of parcels thereof, and for the securing of the rights of all parties interested, as to right and justice, and according to the provisions of this Act and the law, shall appertain :

Notice to persons claiming price or part thereof.

Court to adjudge on claims and distribute the price.

6. The costs of the proceedings before the court or any part thereof, shall be paid by the Commissioners or by the other party, as the court may order; and if the order of distribution be obtained in less than six months from the payment of the compensation money into court, the court shall direct a proportionate part of the interest to be returned to the Commissioners, and if, from any error, fault or neglect of the Commissioners the distribution is not obtained until after the six months have expired, the court shall order the Commissioners to pay into court, the interest for such further period as may be right.

Costs, how and by whom to be paid.

11. The rights of riparians or other proprietors of deep water piers or other property within the said harbor shall not be abrogated or diminished by this Act in any manner whatever, except as hereinbefore provided for the purchase and acquisition of private property.

Certain rights saved.

12. The by-laws, tolls and dues made and established by the mayor, aldermen and commonalty of the city of Saint John, at present in force relating to the harbor of Saint John, and the wharfage dues on wharf property acquired hereunder by the Corporation of the Harbor Commissioners of Saint John, shall continue in force until altered by the Commissioners under authority of this Act.

Certain by-laws of Corporation of St. John continued in force.

Commission-
ers may make
by-laws.

And impose
penalties
thereby.

And alter or
repeal them;
and for what
purposes.

Management.

Prevention of
injury.

Collection of
dues, &c.

Other
matters.

Provision for
sanction by
Gov. in C.

Copies of by-
laws as evi-
dence.

Secretary-
Treasurer.

Approval of.

Harbor Mas-
ter, appoint-
ment and pay
of.

Appointment
and compen-
sation of other
officers.

13. The said Corporation of the Harbor Commissioners of Saint John shall, for the purposes of this Act, have power and authority to make by-laws not repugnant to law or to the provisions of this Act, and by any such by-law to impose penalties not exceeding one hundred dollars or sixty days imprisonment for any offence, upon persons infringing or contravening the provisions of this Act, or of any by-law made thereunder; and to revoke, alter and amend such by-laws as often as they may deem the same expedient; and by-laws made for any of the following purposes shall be held and deemed to be made for the purposes of this Act, that is say :-

1. The direction, conduct and government of the said corporation, and of its officers and servants, and the management and improvement of its property, real and personal;

2. The prevention of injury to the property of the corporation, and encroachments and encumbrances thereon, and for the removal of the same, and also to prescribe where all vessels entering and loading at the harbor of Saint John shall discharge their ballast and shall be, from time to time, moored and placed;

3. The collection of dues and penalties imposed by or under the authority of this Act;

4. And finally the doing of anything necessary to carry out the provisions of this Act according to their intent and spirit;

5. Provided always, that no by-law made by said corporation shall have any force or effect until after it has been sanctioned by the Governor in Council.

14. Copies of any such by-law certified by the secretary-treasurer and under the seal of the said corporation shall be *prima facie* evidence of the same in all courts of law or equity in Canada.

15. The said corporation shall appoint a secretary-treasurer thereto, and shall fix his compensation, and shall require and take from such secretary-treasurer such security for the due and faithful performance of his duties as may be deemed necessary: Provided always, that such secretary-treasurer and his compensation shall be approved by the Governor in Council: and provided, that the harbor master of Saint John shall be appointed by the Governor in Council, and shall be paid from the funds of the said corporation such compensation as the Governor in Council shall determine;

All such other officers, assistants and servants as may be required by the said corporation for the purposes of this Act shall be appointed by the said corporation, who shall allow them such compensation or salary as the said corporation may find necessary.

16. It shall be lawful for the said Commissioners to levy upon all vessels loading or discharging in the harbor of Saint John, or moored or fastened to any of their wharves, and upon all goods landed or shipped within the harbor, such moorage or wharfage rates and such other tolls and dues as may, from time to time, be fixed by the said Commissioners by by-law and approved by the Governor in Council; and the said rates and dues shall be levied and paid as follows:—

Rates to be paid on vessels.

1. As respects sea-going vessels, the moorage thereon shall be levied upon the master or person in charge thereof, and the wharfage rates of goods landed or shipped shall be levied upon the consignee, shipper or owner thereof, or his agent;

Sea going vessels.

2. As respects all other vessels, the moorage rates thereon as well as the wharfage rates upon the cargoes, shall be levied upon and be paid by the master or person in charge thereof, saving to him such recourse as he may have by law against any other person for the recovery of the sum so paid:

Other vessels.

3. In either case such rates shall be a charge and lien upon the vessels and goods on which they are payable, and the said Commissioners may detain the same until such rates are paid, and may sell the same by public auction, if such rates are not paid within forty days after they are landed,—paying the surplus, if any, to the owner or his agent after deducting the rates due and costs of sale.

To be a lien on vessels or goods.

17. If the tariff of tolls and dues established by the Commissioners under this Act should prove insufficient to enable the said Commissioners to meet the charges upon their revenue, as provided by this Act, it shall then be lawful for the Governor in Council to add such percentage to all dues whatsoever imposed under this Act, as will afford the said Commissioners a sufficient revenue for the said purposes.

If insufficient, Gov. in C. may raise them.

18. It shall be lawful for the said Commissioners to require from the master or person in charge of every vessel coming to the harbor of St. John, a report in writing, signed and certified by him, of his vessel's cargo and her draft of water, such report to be made before he shall break bulk; also of his outward cargo and draft of water before his vessel shall leave the harbor,—and such other particulars as may be necessary to carry out the provisions of this Act.

Report by vessels using the harbor.

19. It shall be lawful for the said Commissioners to require the collector of Customs for the port of St. John to collect all or such portion of the aforesaid rates, tolls and dues on their behalf, as they may deem expedient for the convenience of the trade of the harbor to collect through him, and to allow him therefor a commission thereon not exceeding one-half of one per cent.; and the said collector shall not grant a clearance outwards to any vessel without the consent of the Commissioners, unless all rates, tolls and dues

Collector of Customs may collect the rates.

payable on such vessel and her cargo have been previously paid.

Seizure and
sale of vessels
and goods for
non-payment.

20. In case of non-payment of the said dues, tolls or rates or parts thereof, or any other charge which under this Act the said Commissioners may lawfully make, it shall be lawful for the said Commissioners to seize forthwith, before judgment, any vessel or goods whatsoever upon which such dues or other charges may be owing, and to detain the same at the risk, cost and charges of the owner until the sum due and the costs and charges incurred for the seizure and detention of the same be paid in full, and in the event of such rates, dues or other charges remaining due for forty days after such seizure, such vessel or goods may be sold by the said Commissioners by public auction, after the publication in any newspaper published in the said city of St. John, of three advertisements of such sale, in three separate issues of such paper; and the said Commissioners shall thereafter, on demand, account to the owner of such vessel or goods for the proceeds of such sale, first deducting the rates or dues due and all their other legal charges.

Sale by public
auction after
notice.

Application
of proceeds.

Recovery of
rates by
action or sum-
mary pro-
ceeding.

21. All dues and penalties imposed by this Act or by any by-law made under the authority thereof, and all rates, dues and duties authorized to be levied, under and by virtue of this Act, may be recovered by action or proceeding at the suit of the said Commissioners before any court of competent jurisdiction, or in a summary manner before the police magistrate of the city of Saint John or the sitting magistrate acting at the police office in the said city.

Account to be
kept by Com-
missioners.

22. The said Commissioners shall keep separate accounts of all moneys borrowed, received or expended by them under the authority of this Act, and shall account for the same annually to the Governor in Council in such manner and form as he may see fit to direct.

Case of injury
to wharves
&c. by vessels
provided for.

23. If any injury be done to any of the wharves, slips, piers or other works in the said harbor belonging to the said Commissioners, by any vessel or by the carelessness or wantonness of the crew thereof while in the execution of their duty, or of the orders of their superior officers, it shall be lawful for the said Commissioners to seize such vessel and detain her until the injury so done has been repaired by the master or crew, or until security has been given by the said master to pay such amount for the injury and costs as may be awarded in any suit which may be brought against him for the same; and he is hereby declared to be liable to the said Commissioners for any such injury.

Penalty for
obstructing
Commission-

24. If any person or persons shall, in any manner or way whatever, obstruct, hinder, or interrupt any of the offi-

cers, clerks or servants of the Commissioners in the execution of their duties, such person or persons shall, for every such offence, incur a penalty not less than twenty dollars nor exceeding fifty dollars, to be recovered as hereinbefore provided.

25. The seizure of any vessel which, under and by virtue of this Act, the said Commissioners may make for the purpose of enforcing the provisions thereof, may be effected upon the order of the police magistrate of the said city of Saint John or any sitting magistrate sitting at the police office of the said city of Saint John,—which order such magistrate is hereby authorized and required to give, upon the application of the said Commissioners or their authorized agents, on the institution of any action or proceeding before such magistrate for any cause rendering such vessel liable to seizure, and on the affidavit of any one credible person that the cause of such action, alleged in the declaration, complaint or information before such magistrate, is well founded in fact; and such order may and shall be executed by any constable, bailiff or other person whom the said Commissioners may choose to entrust with the execution thereof, and the said constable, bailiff or other person is hereby authorized and empowered to take all necessary means, and to demand all necessary aid to enable him to execute the same.

ers or their
servants.

How a seizure
of a vessel
under this
Act may be
made.

26. The foregoing provisions of this Act shall come into force only upon, from and after a day to be appointed in that behalf by proclamation of the Governor in Council, to be published in the *Canada Gazette*.

When fore-
going sections
shall be in
force.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



45 VIC., CHAP. 52.

An Act to provide for the improvement and management of the Harbor of Three Rivers.

[Assented to 17th May, 1882.]

Preamble.

WHEREAS it is expedient to provide for the improvement and management of the harbor of Three Rivers: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Extent and boundaries of the Harbor of Three Rivers.

1. The harbor of Three Rivers shall, for the purposes of this Act, comprise that part of the Rivers St. Lawrence and St. Maurice lying between a line drawn from the east side of the mouth of the River St. Maurice to a point on the south side of the River St. Lawrence directly opposite, the said line being parallel to the westerly boundary line of the city of Three Rivers, and a line drawn from the said westerly boundary line of the city of Three Rivers to a point on the south side of the River St. Lawrence to be established by producing the said boundary line to the south side of the River St. Lawrence, together with both sides of the River St. Maurice and the islands therein situated, up to the northerly boundary line of the said city of Three Rivers where it crosses the River St. Maurice; and shall include all the water space and beach up to tidal high water, on both sides of the said rivers.

Appointment of Commissioners for improving harbor.

2. It shall be lawful for the Governor General in Council, by an instrument under the Great Seal of the Dominion of Canada, to constitute and appoint three persons to be, together with the mayor of the city of Three Rivers for the time being, and the president of the Three Rivers Board of Trade for the time being, commissioners for the improvement and management of the harbor of Three Rivers, and from time to time to remove such persons or any or either of them, and to appoint others to be the successors of such as shall be removed, or shall die or resign their trust; and such Commissioners and the survivor or survivors of them, and their successors, so from time to time constituted and appointed as aforesaid, together with the mayor of the city of Three Rivers for the time being, and the president of the Three Rivers Board of Trade for the time being, shall be

and are hereby declared to be a body corporate and politic in deed and in name by the name of the *Harbor Commissioners of Three Rivers*,—with power to purchase and acquire, have, hold, enjoy, possess and retain immovable property for the purposes of this Act, and to build or acquire, hold and possess such steamboats, dredges, scows and other vessels as they may deem necessary for the efficient discharge of their duties under this Act: Provided always, that the consent of the Minister of Public Works shall be previously obtained, and that any such purchase or expenditure shall have been sanctioned by him.

Corporate powers: to hold property &c.

Dredges and other vessels.

Proviso: as to expenditure.

3. The said Corporation of the Harbor Commissioners of Three Rivers shall, for the purposes of this Act, have power to make by-laws not repugnant to the laws of the Dominion of Canada, or of the Province of Quebec, or to the provisions of this Act, and to impose penalties under the same not exceeding twenty dollars or sixty days' imprisonment upon all persons contravening the same, and to revoke, alter and amend such by-laws as they may deem expedient: and by-laws made for any of the following purposes shall be held to be made for the purposes of this Act, that is to say:—

Power to make, alter or repeal by-laws for certain purposes.

1. The direction, conduct and government of the said corporation and of its officers and servants, and the management and improvement of its property, real and personal;

Management.

2. The prevention of injury to the property of the corporation, and of encroachment or incumbrances thereon, and the removal of the same, and for prescribing where all vessels entering and loading in the harbor of Three Rivers shall discharge their ballast;

Protection of property.

Ballast.

3. The collection of all dues and penalties imposed by or under the authority of this Act, and finally the doing of anything necessary to carry out the provisions of this Act according to their intent and spirit:

Collection of dues and general purposes.

4. Provided always, that neither such by-laws nor any amendment thereof, shall have any force or effect unless and until approved by the Governor in Council.

Proviso: for approval.

4. Copies of any such by-laws certified by the secretary under the seal of the said corporation, shall be admitted as full and sufficient evidence of the same in all courts of law and equity in Canada; and it shall not be necessary to prove the signature of the secretary or the said seal unless formally disputed.

Proof of by-laws.

5. It shall be lawful for the said Commissioners to elect a chairman from among their number, but neither the chairman nor any member of the said corporation shall receive any salary, pay or gratuity of any kind whatever, nor shall any member of the said corporation be directly or indirectly interested in any contract for work, supplies or materials of any description whatever furnished to the said corporation;

Election of Chairman; he and other Commissioners to serve gratuitously.

Secretary-
Treasurer.

but the said corporation may appoint a secretary-treasurer and fix and pay his compensation, provided such compensation be approved by the Minister of Public Works.

* * * * *

Supervision
of works by
Minister.

7. All works carried out by the corporation must have been authorized by the Minister of Public Works, and shall be conducted under the supervision of an engineer or other competent person, appointed by the said Minister for that purpose.

Arbitration
when corpor-
ation and
vendor do not
agree on price
of properties
required for
works.

8. Whenever the said Commissioners cannot agree with the proprietor or proprietors of any wharf or beach property, required by them for the purposes of this Act, as to the price to be paid for the same, such price shall be determined as follows: The said Commissioners and the proprietor or proprietors of such property, shall each appoint a disinterested arbitrator, and the two arbitrators shall name a third, also disinterested; and the three arbitrators, after being sworn by or before any judge or justice of the peace, to perform their duty honestly and impartially, and having given each other notice of the time and place of their meeting, shall determine such price; and their decision or that of any two of them shall be final.

Tolls for use
of works, &c.

9. It shall be lawful for the said Commissioners to levy upon all vessels loading or discharging in the harbor of Three Rivers, or moored or fastened to any of their wharves, and upon all goods landed or shipped within the harbor, such moorage or wharfage rates, and such other tolls and dues as may, from time to time, be fixed by the said Commissioners and approved by the Governor in Council, and the said rates and dues shall be levied and paid as follows:—

On sea-going
vessels.

1. As respects sea-going vessels,—the moorage thereon shall be levied upon the master or person in charge thereof, and the wharfage rates of goods landed or shipped shall be levied upon the consignee, shipper, owner thereof or his agent:

On other
vessels.

2. As respects all other vessels,—the moorage rates thereon as well as the wharfage rates upon the cargoes shall be levied upon and paid by the master or person in charge thereof, saving to him such recourse as he may have by law against any other person for the recovery of the sum so paid:

Lien for the
same and how
enforced.

3. In either case such rates shall be a charge and lien upon the vessels and goods on which they are payable, and the Commissioners may detain the same until such rates are paid, and may sell such goods by public auction, if such rates are not paid within forty days after they are landed,—paying the surplus, if any, to the owner or his agent, after deducting the rates due and costs of sale.

10. It shall be lawful for the said Commissioners to require from the master or person in charge of every vessel coming to the harbor of Three Rivers, a report in writing, signed and certified by him, of his vessel's cargo and her draft of water,—such report to be made before he shall break bulk; also of his outward cargo and draft of water before his vessel shall leave the harbor, and such other particulars as may be necessary to carry out the provisions of this Act.

Report to Commissioners by masters of vessels.

11. It shall be lawful for the said Commissioners to require the collector of Customs for the port of Three Rivers to collect all or such portion of the aforesaid rates and dues on their behalf as they may deem expedient for the convenience of the trade of the harbor to collect through him, and to allow him therefor a commission thereon, not exceeding one-half per cent.; and the said collector shall not grant a clearance outwards to any vessel without the consent of the Commissioners, unless all rates payable on such vessel and her cargo have been previously paid.

Collector of Customs may be required to collect dues.

No clearance until dues are paid.

12. The said Commissioners shall keep separate accounts of all moneys borrowed, received or expended by them under the authority of this Act, and shall account for the same annually to the Governor in such manner and form as he may see fit to direct.

Accounts.

13. Provided always, that all land and beach lots, booms, piers, wharves and other land or property of every description, situated and being within the limits of the said harbor, now actually in use by the Dominion Government, or which may hereafter be required for the use of the same, shall be and are hereby expressly exempted from the provisions of this Act.

Provided as to Dominion property.

14. The Minister of Public Works shall have power to fix and define the line of tidal high-water mark to be adopted by the Commissioners as the boundary of the harbor, and also to establish all other limits or boundaries required to be established for the purposes of this Act.

Minister to establish boundaries of harbor.



45 VIC., CHAP. 53.

An Act to authorize the construction, on certain conditions, of the Canadian Pacific Railway through some Pass other than the Yellow-Head Pass.

[Assented to 17th May, 1882.]

Preamble.

44 V., c. 1,
cited; as to
the Pass
through the
Rocky Moun-
tains.

WHEREAS by clause thirteenth of the contract with Her Majesty the Queen now held by the Canadian Pacific Railway Company (which contract is contained in the Schedule to the Act passed in the forty-fourth year of Her Majesty's reign, chapter one, intituled "*An Act respecting the Canadian Pacific Railway*,") it is provided that the said Company shall have the right, subject to the approval of the Governor in Council, to lay out and locate the line of the railway thereby contracted for as they may see fit, preserving the following terminal points, namely, from Callander Station to the point of junction with the Lake Superior section and from Selkirk to the junction with the western section at Kamloops by way of the Yellow-Head Pass; and whereas it may be found to be in the public interest that the junction with the western section at Kamloops should be made by way of some pass other than the Yellow-Head Pass: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Change of
Pass may be
authorized by
Governor-in-
Council.

Proviso.

1. The Canadian Pacific Railway Company may, subject to the approval of the Governor in Council, lay out and locate their main line of railway from Selkirk to the junction with the western section at Kamloops by way of some pass other than the Yellow-Head Pass, provided that the pass be not less than one hundred miles from the boundary between Canada and the United States of America.

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45 VIC., CHAP. 55.

An Act to provide for the granting of a subsidy to the
Chignecto Marine Transport Railway Company
(limited.)

[Assented to 17th May, 1882.]

IN consideration of the great advantages which would
accrue to the Maritime Provinces and the intercolonial
trade of Canada generally, from the construction of a ship
railway across the Isthmus of Chignecto, from Tignish, on
La Baie Verte, in the Gulf of St. Lawrence, to a point at the
mouth of the River La Planche, on the bay of Fundy, and
of the proposal made by Mr. H. G. C. Ketchum, on behalf of
a Company formed and to be incorporated as "The Chig-
necto Marine Transport Railway Company (limited)," and
approved by the Governor in Council on the report of the
Minister of Railways and Canals, after consultation with
the Chief Engineers of the Department: Her Majesty, by
and with the advice and consent of the Senate and House
of Commons of Canada, enacts as follows:—

1. If the said Company do, within seven years from the
first day of July now next, construct such ship railway, ac-
cording to the terms of their said proposal, and of an agree-
ment and contract in that behalf which the Government of
Canada may, if they see fit, make with the said Company,
in a substantial manner, and fully equipped for the services
therein to be stipulated, to the satisfaction of and subject to
the approval of the said Government; then, during a term
of twenty-five years from the date of such approval, provided
the said ship railway is kept in thorough repair and satis-
factorily performs the services aforesaid, a subsidy at the
rate of one hundred and fifty thousand dollars a year shall
be paid to the said Company out of the Consolidated Reve-
nue Fund of Canada,—such subsidy not being payable for
any period during the said twenty-five years during which
the conditions above mentioned shall not be complied with.

Preamble.

Conditions
on which a
subsidy not
exceeding
\$150,000 a
year may be
paid to the
said Company
during 25
years.

Provided the
works are
kept in good
order.



46 VIC., CHAP. 14.

An Act to encourage the manufacture of Pig Iron in
Canada, from Canadian Ore.

[Assented to 25th May, 1883.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Bounty authorized on pig iron made in Canada, from Canadian ore.

1. It shall be lawful for the Governor in Council to authorize the payment out of the Consolidated Revenue Fund of Canada of a bounty of one dollar and fifty cents per ton on all pig iron manufactured in Canada from Canadian ore, between the first day of July, one thousand eight hundred and eighty-three, and the thirtieth day of June, one thousand eight hundred and eighty-six, both days inclusive, and of a bounty of one dollar per ton on pig iron so manufactured, between the first day of July, one thousand eight hundred and eighty-six, and the thirtieth day of June, one thousand eight hundred and eighty-nine, both days inclusive, under such regulations as may be, from time to time, made by Order in Council as to the quality of the said iron and such other matters as it may be found expedient to provide for, to prevent fraud and ensure the good effect of this Act.

Under Regulations by O. C.

Yearly report to Parliament.

2. The regulations made as aforesaid under this Act, shall be laid before Parliament within the first fifteen days of each Session, with a statement of the moneys expended in payment of the said bounty, and of the parties to whom they have been paid, and the places at which the pig iron in respect of which they have been paid was manufactured, and such other particulars as may tend to show the effect of the said bounty.

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46 VIC., CHAP. 21.

An Act to amend the Act passed in the forty-fifth year of the reign of Her present Majesty, intituled "*An Act to repeal the duty on promissory notes, drafts and bills of exchange.*"

[Assented to 25th May, 1883.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. In any suit or proceedings at law or in equity now pending or hereafter to be commenced, the court or judge may admit in evidence as a valid instrument, any promissory note or bill of exchange unstamped or insufficiently stamped, made or drawn prior to the fourth day of March, in the year of our Lord one thousand eight hundred and eighty-two, without the payment of the double duty as required by the thirteenth section of the Act passed in the forty-second year of the reign of Her present Majesty, intituled, "*An Act to amend and consolidate the laws respecting duties imposed on promissory notes and bills of exchange*;" Provided always, that it is proved and shown to the satisfaction of the court or judge that the circumstances and facts are such as would have entitled the holder thereof previous to the said fourth day of March to make it valid under the provisions of the said section by affixing stamps representing the double duty; and provided also, that nothing in this Act nor anything done under it shall relieve the person who ought to have affixed the proper stamp or stamps from any penalty incurred in consequence of his neglect to affix the same.

Judge may admit any note or bill of exchange made before 4th March, 1882, in evidence although wanting the proper stamp or stamps.

42 V., c. 17.

Proviso.

Proviso.

2. In any action or suit now pending in which but for this Act the defendant could have succeeded, the defendant shall, nevertheless, be entitled to the costs of the same on any plea in which the validity of the bill or promissory note has been questioned by reason of such bill or promissory note not having been properly stamped under the Act in the next preceding section cited.

As to costs of defendant in certain suits now pending.



46 VIC., CHAP. 25.

An Act for authorizing Subsidies for the construction of the lines of Railway therein mentioned.

[Assented to 25th May, 1883.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Subsidies may be granted in respect of certain railways.

1. It shall be lawful for the Governor in Council to grant the subsidies hereinafter mentioned to the railway companies, and towards the construction of the railways also hereinafter mentioned, that is to say :—

To the Baie des Chaleurs Railway Company for 100 miles of their railway, from Matapediac, on the Intercolonial Railway, to Paspébiac, in the Province of Quebec, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole....	\$320,000
To the Caraquet Railway Company for 36 miles of their railway, from a point near Bathurst to Caraquet, in the Province of New Brunswick, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	115,200
To the Gatineau Valley Railway Company for the first 50 mile section of their railway from Hull Station, in the Province of Quebec, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	160,000
To the Great American and European Short Line Railway Company, for 80 miles of their railway from Canso to Louisburg or Sydney, in the Province of Nova Scotia, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole....	256,000
To the International Railway Company, for 49 miles of their railway from Sherbrooke, in the Province of Quebec, to the International boundary line, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	156,800

In connection with the extension of this road through Maine to connect with New Brunswick, at or near Vanceborough or south of that point.

To the Northern and Western Railway Company, for 32 miles of their railway, from the Intercolonial Railway, near the Miramichi, to Moran's, near Demphy Village, in the Province of New Brunswick, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.. 102,400

To the Montreal and Western Railway Company, for the first 50 mile section of their railway, out of St. Jérôme, in the Province of Quebec, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole..... 160,000

To the Napanee, Tamworth and Quebec Railway Company, for 28 miles of their railway, from Napanee to Tamworth, in the Province of Ontario, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole..... 89,600

To the Quebec and Lake St. John Railway Company, for 25 miles of their railway, from St. Raymond to Lake St. John, in the Province of Quebec, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole..... 80,000

In addition to the subsidy granted by the Act forty-fifth Victoria, chapter fourteen.

For a railway from the Intercolonial Railway at Petitcodiac to Havelock Corner, in the Province of New Brunswick, 12 miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole... 38,400

For a railway from Gravenhurst to Callander, 110 miles, a subsidy not exceeding \$6,000 per mile, nor exceeding in the whole 660,000

In addition to the subsidy granted by the Act forty-fifth Victoria, chapter fourteen.

Total.....\$2,138,400

The nine subsidies first mentioned to be granted to the companies hereinbefore named respectively ; and the two subsidies last mentioned to be granted to such companies as shall be approved by the Governor in Council as having established to his satisfaction their ability to complete the

To what Companies and on what conditions.

said railways, respectively ; and all the eleven lines above mentioned, and also all the lines of railway in respect of which it is provided by the Act forty-fifth Victoria, chapter fourteen, that subsidies may be granted, shall be commenced within two years from the first day of July next, and completed within a reasonable time, not to exceed four years from and after the passing of this Act, to be fixed by Order in Council, and according to descriptions and specifications to be approved by the Governor in Council, on the report of the Minister of Railways and Canals, and specified in an agreement to be made by each company with the Government, and which the Government is empowered to make ;

How payable. and all the said subsidies authorized by this Act, respectively, to be payable out of the Consolidated Revenue Fund of Canada by instalments, on the completion of each section of not less than ten miles of railway, proportionate to the value of the portion so completed in comparison with the whole work undertaken, to be established by the report of the said Minister : Provided always, that the granting of such subsidies shall be subject to such conditions for securing such running powers or traffic arrangements, and other rights, as will afford all reasonable facilities and equal mileage rates to all railways connecting with those so subsidized, as the Governor in Council may determine.

Proviso, conditions as to running powers.

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46 VIC., CHAP. 26.

An Act to provide for advances to be made by the Government of Canada to "The Saint John Bridge and Railway Extension Company."

[Assented to 25th May, 1883.]

WHEREAS "The Saint John Bridge and Railway Extension Company" is a corporation duly incorporated under an Act passed by the Local Legislature of the Province of New Brunswick for the purpose of constructing and maintaining a line of railway from some point on the line of "The Saint John and Maine Railway Company," at or near Fairville, in the parish of Lancaster, in the city and county of Saint John, in the said Province of New Brunswick to some point on the Intercolonial Railway at or near its terminus in the city of Saint John, crossing the River Saint John by a railway bridge to be constructed by the said Company, which said works are and are hereby declared to be for the general advantage of Canada; and whereas the said Company have applied to the Government of the Dominion of Canada for an advance of money to aid them in the construction and completion of their said line of railway and bridge, and in consequence of such application an Order in Council, set forth in the schedule to this Act, was passed on the nineteenth day of October, 1882: and whereas it is desirable that legislative provision should be made accordingly: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. The Governor in Council may, if he sees fit, make advances of money to the said Company, to the extent, in the manner, for the purpose and upon the terms and conditions mentioned and set forth in the said Order in Council, which is hereby incorporated with and made a part of this Act, and upon the said Company's duly executing a mortgage deed or other instrument, to the satisfaction of the said Governor in Council, in the terms and upon the conditions aforesaid, and creating a first lien and charge upon the property, real and personal, franchises, rights, easements and privileges of the said Company; and such mortgage deed or instrument shall be valid and binding, and the obligations thereby assumed by the said Company may be enforced according to the tenor thereof.

Certain advances may be made by the Governor in Council.

Security to be given by the Company.

SCHEDULE.

Certified Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Honor the Deputy of His Excellency the Governor General in Council, on the 19th October, 1882.

On a report dated 18th October, 1882, from the Minister of Finance stating that he has had under consideration a letter dated the 16th October instant, from Mr. Robert Robinson, a director of the St. John Bridge and Railway Extension Company, asking that amendments be made in the terms of the Order in Council of the 23rd September last, which recommended that Parliament at the next session be asked to legislate in aid of the Company in the direction therein mentioned:—

The Minister reports that he is of opinion that it is proper that the subsidy from the New Brunswick Government and the annuity from the St. John and Maine Railway Company be left to the Company to dispose of as they shall see fit, and that the Government shall have no charge or lien thereon, except as the same may be expended on the works of the Company.

The Minister is also of opinion that the time within which the Government may purchase the Company's works and undertakings may properly be reduced from fifteen to five years from the date on which the first advance is made,

The Minister is further of opinion that certain other amendments should be made in the said Order in Council, and he therefore recommends that the said Order in Council be cancelled and that Parliament be asked at the next session to legislate in the following direction in aid of the Company:

1. The Governor in Council to be authorized to advance to the Company as the work proceeds, such sums of money as will not exceed eighty per centum of the expenditure as made; the advances to be made on the certificate of the Chief Engineer of Government Railways in operation, and the whole of the advances not to exceed in all the sum of five hundred thousand dollars:

2. The Company to have the right of repaying the advances and interest at any time within fifteen years from the date on which the first advance is made:

3. The Government may, if it should be found advisable, take possession of the bridge, railway and appurtenances at any time within five years from the date on which the first advance is made, on payment of the difference between the amounts then due to the Government for advances and interest, and the sum of the total amount expended by the Company, and ten per centum on the total amount so expended:

4. In case the Company fail to complete the work within the time specified by their charter, by the 25th March, 1885,

the Government to have power to enter and take possession of the Company's works and undertakings and complete the same without making further advances, but paying to the Company the difference between the amount then advanced and eighty per centum of the cost at the date of entry, as certified to by the Chief Engineer of Government railways in operation :

5. The said advances and interest thereon to be a first charge and lien on, and to be secured by a mortgage on all the property, real and personal, of the Company, and on all their rights, franchises, easements and privileges; and in case the Company should make default in payment of the interest on the said advances for the space of one year after the same becomes due, or in case they fail to repay to the Dominion Government the said advances within fifteen years from the date of the advance of the first sum, then and in either case all their property, real and personal, and all their rights, franchises, easements and privileges shall be and become by the act of default, and without any proceedings for condemnation, foreclosure or possession, forfeited to the Crown, and Her Majesty, by Her officers or agents, may thereupon enter and take possession of the same, and the same shall thenceforth be the property, rights, franchises, easements and privileges of Her Majesty as represented by the Dominion Government :

6. Interest to be computed at the rate of four per centum per annum, and to be payable annually on or before the thirtieth day of June in each year.

The Committee submit the above recommendation for Your Excellency's approval.

(Signed)

JOHN J. MCGEE.



46 VIC., CHAP. 38.

An Act to make further provision for deepening the ship channel of the River St. Lawrence between Montreal and Quebec.

[Assented to 25th May, 1883.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Issue of debentures and loan of \$900,000 authorized.

How to be applied.

Rate of interest.

Proviso :

Report to precede commencement of work.

1. It shall be lawful for the Governor in Council to raise, by the issue of debentures, in the manner prescribed by the Act thirty-sixth Victoria, chapter sixty (except as to the rate of interest, which shall not exceed four per cent. per annum), a further sum not exceeding nine hundred thousand dollars, to be advanced to and applied by the Montreal Harbor Commissioners from time to time, in meeting the expenses to be incurred by them in completing the dredging and deepening of the ship channel of the River St. Lawrence, between Montreal and Quebec, to the depth of twenty-seven feet and a half, at low water; subject to the payment by the said Commissioners to the Receiver General, of interest on the sums so raised and advanced, at the rate of four per cent. per annum: Provided, that the said Commissioners shall not commence the said work unless nor until the Governor in Council shall be satisfied by such examination and report as shall be deemed sufficient, that the said work can be completed for a sum not exceeding that above mentioned.

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46 VIC., CHAP. 39.

An Act to amend the Act thirty-sixth Victoria, chapter sixty-two, and the Act forty-third Victoria, chapter seventeen, respecting the Quebec Harbor Commissioners.

[Assented to 25th May, 1883.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

I. In order to assist the Quebec Harbor Commissioners in the improvement of the harbor of Quebec, the Act thirty-sixth Victoria, chapter sixty-two, intituled, "*An Act further to amend the Acts to provide for the management and improvement of the harbor of Quebec,*" and the Act forty-third Victoria, chapter seventeen, intituled, "*An Act to authorize the raising of a further sum to enable the Quebec Harbor Commissioners to complete their Tidal Dock,*" are hereby so amended that the rate of interest payable by the said Harbor Commissioners to the Receiver General upon the sums raised under the said recited Acts, shall be four per centum per annum, from and after the passing of this Act, instead of five as therein specified.

Acts 36 V., c. 62, and 43 V., c. 17, and rate of interest payable under them by the Commissioners reduced.

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46 VIC., CHAP. 40.

An Act to amend the Act thirty-eighth Victoria chapter fifty-six intituled, "*An Act respecting the Graving Dock in the Harbor of Quebec, and authorizing the raising of a loan in respect thereof.*"

[Assented to 25th May, 1883.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Additional
advances in
respect of
Graving
Dock
authorized.

1. In addition to the sum authorized by the Act passed in the thirty-eighth year of Her Majesty's reign, chaptered fifty-six, and intituled, "*An Act respecting the Graving Dock in the Harbor of Quebec, and authorizing the raising of a loan in respect thereof,*" it shall be lawful for the Governor in Council to advance, from time to time, to the Corporation of the Quebec Harbor Commissioners, in order to enable them to complete the graving dock now in course of construction in the harbor of Quebec, such sum or sums of money as may be required for the purpose, the amount of such additional sums so advanced by virtue hereof not, however, to exceed in the whole the sum of one hundred thousand dollars.

Amount
limited.

Provisions of
38 V., c. 56,
to apply to
such advance.

2. Subject to the provision hereinafter contained as to rate of interest, all the provisions of the said cited Act relating to the payment of interest and the application of the net income received from tolls, rates, duties and dues, imposed and received as therein stated, and for the formation of a sinking fund for repayment of sums advanced, shall apply to the sum or sums of money advanced under and by virtue hereof, in like manner and to the same extent as the same apply to any sum or sums advanced under the said cited Act.

Interest on
advance to be
4 per cent.

3. The rate of interest payable by the said Quebec Harbor Commissioners to the Government on the additional sum or sums of money advanced to them by the Government under and by virtue of this Act, shall be four per centum per annum.



46 VIC., CHAP. 41.

An Act respecting the Harbor Master of the harbor of
Three Rivers.

[Assented to 25th May, 1883.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. The appointment by the Harbor Commissioners of Three Rivers of a harbor master who had held that office by appointment by virtue of an order of the Governor in Council, under the Act thirty-seventh Victoria, chapter thirty-four, as amended by the Act thirty-eighth Victoria, chapter thirty, is hereby confirmed; and the said officer shall exercise the powers and perform the duties assigned to harbor masters by the Acts last cited, at and with respect to the harbor of Three Rivers, under the superintendence and control of the said Commissioners and their successors in office, who shall hereafter, as regards the appointment, removal and salary of the harbor master for the said harbor, have the powers heretofore vested in the Governor in Council by the said Acts, and by whom the salary of the said harbor master shall hereafter be fixed from time to time, and paid out of the tolls levied by them under the Act forty-fifth Victoria, chapter fifty-two; and such salary shall be in lieu of the fees mentioned in the said Act, thirty-eighth Victoria, chapter thirty, which shall not be payable to or for the said harbor master: Provided always, that nothing in this Act shall impair or affect the powers of the Governor in Council as to the appointment and removal of the said Commissioners or their successors in office or otherwise, or their obligation to account to him yearly for moneys borrowed, received or expended by them, or to derogate from any power now vested in the Minister of Marine and Fisheries or the Minister of Public Works, with respect to the said harbor.

Preamble.

Appointment by the Commissioners confirmed, and power of appointment, &c., transferred to them.

Salary to be paid out of tolls and to be in lieu of fees.

Proviso: powers of Governor in Council and Ministers not affected.



46 VIC., CHAP. 42.

An Act further to amend the Act respecting the Harbor of Pictou.

[Assented to 25th May, 1883.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Partial exemption of certain ships from harbor dues.

1. The harbor dues imposed by the Act passed in the thirty-sixth year of Her Majesty's reign, and intituled : "*An Act respecting the Harbor of Pictou in Nova Scotia*," shall not be payable on any ship exceeding forty tons and not exceeding eighty tons register, more than twice in any calendar year, beginning on the first day of January and ending on the thirty-first day of December, whatever may be the number of times she enters the said harbor during the year.

Governor may increase and again decrease the number of Commissioners for the said Harbor.

2. The Governor may, if he sees fit, at any time and from time to time, increase the number of Commissioners for the superintendence of the said harbor and of the harbor master at the port of Pictou, under the said Act, from three to five, and may, at any time and from time to time, reduce their number from five to three; and the five or three Commissioners, for the time being, shall have the powers and duties assigned to Commissioners by the said Act, and the Acts in amendment thereof.

Prosecution for violation of rules.

3. The said Commissioners shall have power to prosecute any person violating any rule or regulation made under the said Act, and the Acts in amendment thereof.

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47 VIC., CHAP. 1.

An Act to amend the Act intituled: "*An Act respecting the Canadian Pacific Railway*," and for other purposes.

[Assented to 5th March, 1884.]

WHEREAS the Canadian Pacific Railway Company have represented, that although possessed of property and assets, which, if realized, would be sufficient for the completion of the Canadian Pacific Railway within one half of the time contemplated by the contract between the Government and the Company, namely, by the first day of May, one thousand eight hundred and eighty-six, yet that in consequence of the state of the market for railway securities, and of other circumstances beyond their control, and notwithstanding the agreement made with the Government on the seventh day of November last, for securing for ten years from the seventeenth day of August last, a three per centum dividend upon their outstanding stock, they are unable to procure the funds required for proceeding with the work of construction as rapidly as is necessary to complete the railway within the said earlier period, and have applied for certain modifications of the contract of construction and of the said agreement, and for an advance upon the security of their entire railway, branches, equipment and property, in order to assist them in so proceeding with such work; and whereas it is expedient, in furtherance of the early settlement of the North-West Territories and of the completion of transcontinental communication by railway through Canada, that the early completion of the said railway should be ensured: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. The Government may return to the Company the securities now held under the third section of the Act forty-fourth Victoria, chapter one, intituled: "*An Act respecting the Canadian Pacific Railway*," and under the second clause of the construction contract, bearing date the twenty-first day of October, one thousand eight hundred and eighty, as security for the construction of the said railway.

Return of certain securities now held by Government under 44 V., c. 1.

2. The money subsidy hereafter payable to the Company, may be paid as the work on either the central or eastern

Condition of payment of money sub-

sidy here-
after.

section of the railway proceeds, in the proportion which the value of the work done on such section, and for which payment is demanded, bears to the value of the whole work now remaining to be done, under the contract, on such section.

Time for pay-
ment of cer-
tain sums by
the Company
under agree-
ment of 7th
November,
1883, extend-
ed.

3. The time for the payment by the Company of the sum of two million eight hundred and fifty-three thousand nine hundred and twelve dollars, agreed by the said Company to be paid on or before the first day of February, one thousand eight hundred and eighty-four, as part of the fund referred to in their agreement with the Government, of the seventh day of November last, is hereby extended to the seventh day of November, one thousand eight hundred and eighty-eight, when the sum of four million five hundred and twenty-seven thousand dollars being the last instalment of the said fund payable by the Company to the Government, will fall due, the whole with interest payable half yearly at the rate of four per centum per annum as agreed upon at the time of the execution of the said agreement, and the same shall then be paid to the Government, together with the said last mentioned amount, forming together the sum of seven million three hundred and eighty thousand nine hundred and twelve dollars, bearing interest at the said last mentioned rate, until paid; and the said agreement as hereby modified is ratified and confirmed.

Agreement as
modified con-
firmed.

Loan to Com-
pany not ex-
ceeding
\$22,500,000
authorized.

Interest
thereon.

Advance of
\$7,500,000.

Conditions of
payment of
the remain-
der.

4. The Government may, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, make a loan to the said Company of an amount in money, not exceeding twenty-two million five hundred thousand dollars, to be repaid to the Government on or before the first day of May, one thousand eight hundred and ninety-one, with interest at the rate of five per centum per annum, payable half yearly, until full payment of the principal; and out of the said loan the Government may advance to the Company forthwith, such amount not exceeding seven million five hundred thousand dollars, as shall be required by the Company to extinguish its present floating debt, the amount and character of the items of such debt to be established to the satisfaction of the Government; and the remainder of the said loan may, if the Government is satisfied that the work of construction is being so proceeded with as to ensure its completion in the month of May, one thousand eight hundred and eighty-six, be paid to the Company as the work of construction proceeds, in the same proportion as that which is hereby provided for the payment of the balance of the money subsidy.

Security by
lien and
charge on the
whole pro-

5. As security for the repayment of the said loan, with interest as aforesaid, and as additional security for the payment of the said sum of seven million three hundred and

eighty thousand nine hundred and twelve dollars and interest, falling due on the seventh day of November, one thousand eight hundred and eighty-eight, the Government shall have a first lien and charge upon the entire property of the Company, real and personal, now owned or hereafter to be acquired or owned by them, including their main line of railway, the extensions thereof, their branch lines of railway, the whole of their equipment, rolling stock and plant and all their steamers and vessels, and also upon the land grant of the Company, earned and to be hereafter earned; saving always, however, the rights of the holders of the existing mortgages on the extensions of the line of the railway from Callander to Brockville and Montreal, as security for the unpaid balances of the purchase money of the lines constituting the said extensions, and subject to the mortgage upon the land grant, executed by the Company to secure their issue of land grant bonds; and the Government shall continue to hold and retain the entire amount of land grant bonds now in its custody or possession, subject to redemption under the terms of the said land grant mortgage, and with all remedies as to interest, voting power and all other matters in respect thereof, which would be held or possessed, or could be exercised by any purchaser of the said bonds; and all moneys received by the Government from the trustees of the land grant bonds in redemption of such bonds shall be applied as follows, that is to say:—

1. All moneys so received in respect of ten million dollars of the said bonds shall be applied:—*Firstly*, in extinction of the interest accrued and due upon the said loan, and upon the said sum of seven million three hundred and eighty thousand nine hundred and twelve dollars:—*Secondly*, on account of the capital of the said sum of seven million three hundred and eighty thousand nine hundred and twelve dollars, and—*Thirdly*, on account of the capital of the said loan: And the Government may make such arrangement as it shall deem expedient, for securing the payment to it, after the redemption of the land grant bonds, of the proceeds of all sales of lands granted or to be granted to the Company under the contract, to be applied to the purposes and in the order aforesaid:

2. And the remaining five million dollars of land grant bonds and money received from the said trustees in redemption thereof, shall continue to be held on the conditions and for the purposes mentioned in the said contract.

6. The Government shall cause a deed of agreement to be executed by the Company and on behalf of the Government, providing for such remedies, terms and conditions as the Government shall deem expedient, for securing the application of the said loan to the purposes for which the same is hereby authorized, and the repayment of the said loan and the payment of the said sum of seven million three hundred and

party of the Company: saving existing mortgages on certain extensions of their line of railway.

Government to continue to hold land grant bonds.

Application of proceeds.

As to \$10,000,000.
Firstly.

Secondly.

Thirdly.
As to proceeds of sale of lands after redemption of bonds.

Remaining five million on the conditions of the contract.

Deed of agreement to be made by the Government and the Company for performance of certain conditions.

eighty thousand nine hundred and twelve dollars, the whole with interest (including interest on any interest in default),—for the release of the said lien and charge upon such repayment,—for continuing the sale and realization of the value of the said lands, after the redemption of the land grant bonds,—for the payment to the Government of the proceeds of such sales, and for the discharge of such lands from the said charge upon payment of the price of sale thereof,—such price not to be less than one dollar and twenty-five cents per acre: Provided always, that, among such remedies, terms, and conditions, it shall be agreed and provided:—

Proviso.

Completion of central and eastern sections in May, 1886.

Provision for ensuring satisfactory progress of work.

1. That the Company shall complete the central and eastern sections of the railway not later than the month of May, one thousand eight hundred and eighty-six, and shall from month to month, in the meantime, make such progress with the work on both sections, as will satisfy the Government that the agreement in this respect will be fulfilled; and should the Government at any time not be satisfied with the progress being made with the work, and so notify the Company, and if forthwith after such notice, the Company do not put on such additional force and thereafter maintain the same, and also take such other steps to accelerate the progress of the work, as may be sufficient to ensure the completion thereof in the said month of May, one thousand eight hundred and eighty-six, and as shall be satisfactory to the Government, then and in that case, no further advances on account of the loan aforesaid shall be made to the Company; and in that case the total amount up to that time advanced on account of the said loan shall, as additional security for the payment thereof, be a charge against and a form of a lien upon any cash subsidy then earned and not paid, and on any cash subsidy thereafter earned by the Company; and—

On default for twelve months of payment of interest or principal as agreed, the whole property of the Company to become vested in Her Majesty and be taken possession of by Minister of Railways and Canals, &c.

2. That upon default for twelve months in the payment of any half-yearly instalment of interest upon the said loan, or any part thereof, or of interest upon the said sum of seven million three hundred and eighty thousand nine hundred and twelve dollars, or any part thereof, or in the payment of the principal of either of the said sums or any part of either of them when the same shall become due, in accordance with the provisions hereof, the right of the Company under their contract hereinbefore mentioned, to demand or receive any further cash or land subsidy shall cease and determine, and the said railway and extensions thereof, branches, equipment, rolling stock, plant, including steamers, and all lands and property of the Company and all land grant bonds then in the possession of the Government shall, upon the occurrence and continuance for the said period of twelve months of such default, *ipso facto*, and without any notice or proceeding whatsoever, vest in Her Majesty and shall forthwith, thereupon, be taken possession of by the Minister of Railways and Canals,

on behalf of the Government of Canada; and each and every employee of the Company shall, from and after the expiry of the said period of twelve months, become and be the employee of the Government during pleasure, and shall hold and possess any matter or thing appertaining to the said Company then in his custody, as and for the Government; and the rates of interest and the terms of payment hereby fixed shall not be disturbed or altered by the terms of such agreement.

As to employees of Company, &c.

7. The said Company is hereby authorized to execute an agreement of the nature and purport hereinbefore provided for, and to charge its entire property and assets, in manner and form as hereinbefore described; and in such agreement to agree upon such further and other conditions as the Government may prescribe: Provided, that authority to the board of directors of the Company to accept the provisions of this Act and to execute an agreement containing the charges upon the said railway and property and the other conditions required or authorized by this Act, shall be granted by the shareholders of the Company, either by a resolution passed at a special general meeting of such shareholders called for the purpose, by a vote of at least two-thirds in value of such of the shareholders as shall be present or represented at such meeting, or by an instrument or instruments executed by at least two-thirds in value of the whole of the shareholders of the Company, in person or represented by their attorneys or proxies, respectively, duly authorized in that behalf.

Company may execute agreement and charge its property.

Provido, for authority from shareholders.

8. Until the payment in full of the indebtedness of the Company to the Government with interest, all moneys earned and to be earned by the Company as postal subsidy and for transport service shall be retained by the Government and shall be applied first on account of the interest to become due from time to time upon the indebtedness aforesaid hereby authorized, and then to the payment of the principal.

Lien on postal subsidy, &c.; and how applicable.

9. The stock of the Company, amounting to thirty-five million dollars, now in the hands of the Government, shall be held by the Minister of Finance, and may be sold by the Company with the consent of the Government, on condition that the proceeds of such sale, less the amount required to be paid to the Government to secure a half-yearly dividend thereon, at the rate of three per centum per annum, up to the seventeenth day of August, one thousand eight hundred and ninety-three inclusive, shall be applied under the direction of the Government, either to the improvement or extension of the railway or its equipment, or to the repayment of the indebtedness of the Company to the Government; and if at any time the stock of the Company should reach a price which,

Unsold stock of Company to be held by Government. Application of proceeds.

When and on what conditions it may be sold.

in the opinion of the Government, would render it expedient to sell the said stock or any part thereof, then and thereupon, on notice being given to the Company by the Government, requiring that the said stock, or any part thereof, be sold, and specifying the minimum price at which the same shall be so sold, the Company shall cause the same to be offered for sale, and sold in conformity with such notice; and in default of their doing so, within a reasonable delay (which delay shall be in the discretion of the Government), the Government shall have the right to sell the same or any part thereof at or above such minimum price, and shall apply the proceeds thereof, as it is herein provided such proceeds shall be applied in the event of the sale of such stock by the Company.

No transfer of or charge on property of Company until loan is re-paid.

Nor any issue of stock beyond \$100,000,000.

Provision for negotiation of land grant bonds exclusively on unsold portion of land subsidy, in certain cases and on certain conditions.

10. So long as the said several sums of money loaned as aforesaid or any part thereof or of the interest thereon remain unpaid, no sale or transfer, nor any mortgage, lien or charge of any description shall be made or created of or upon the railway, property or assets of the Company, or any part thereof; nor shall any stock be issued by the Company, pending such repayment, above or beyond the amount of one hundred million dollars, to which the same is hereby limited :

2. But if at any time, before default in the payment of any of the said sums of money or interest shall have occurred and shall have been continued twelve months, the Company can negotiate any bonds secured exclusively upon the unsold portion of the land subsidy to such amount per acre as shall be approved by the Government, then with such approval, and with the authority of their shareholders as provided by their charter, and after the cancellation or withdrawal of, or after making full provision to the satisfaction of the Government for the balance of the present land grant mortgage bonds of the Company, they may make a new issue of land grant bonds to the amount so approved by the Government, secured as described in their charter, which land grant bonds shall be deposited with the Government; and upon making a sale of the whole of the said bonds, or from time to time of any portion thereof, not less than one-third thereof, the Company may notify the Government of such sale, and thereupon and upon payment to the Government of the price of such sale, at a rate satisfactory to the Government, the bonds so sold shall be delivered to the purchaser thereof; and thereupon the bonds so delivered, together with the balance thereof remaining in the hands of the Government, shall constitute a first mortgage and charge upon the unsold portion of the land subsidy to the exclusion of the charge hereby created; and any of the said bonds remaining in the hands of the Government shall have the right to rank on the said land subsidy *pari passu* with the portion thereof so sold and delivered; and the

Government shall have all the rights and remedies in respect thereof of any holder of any part of the said issue, and on the occurrence and continuance for twelve months of any default as aforesaid, the Government may sell any of such bonds remaining in its possession; and all sums of money realized from the said bonds in any manner whatever shall be applied on account of the indebtedness of the Company to the Government hereinbefore mentioned.

Rights of the Government as holder of bonds.

And application of proceeds.

11. The Canadian Pacific Railway shall not, nor shall any of its branch lines nor any line of railway leased by the Company or under their control, be at any time amalgamated with the Grand Trunk Railway or any of its branch lines or with any branch lines leased by the Grand Trunk Railway Company, or under their control; and such amalgamation, and any arrangement for making a common fund or pooling the earnings or receipts of the said two railways or their or any of their branch lines, or of any railway lines or parts thereof leased by the said companies, or either of them, or under the control of either of them, shall be absolutely void: this provision, however, shall not extend to traffic or running arrangements made with the assent of the Governor in Council, nor to hinder the acquisition, by the Canadian Pacific Railway Company, of the railway between Quebec and Montreal, known as the North Shore Railway:

Amalgamation or pooling with Grand Trunk Railway forbidden.

2. The Supreme Court of Canada shall have jurisdiction to enforce the provisions of this section, and to prevent, by injunction or otherwise, any infraction thereof, and to punish any breach or disobedience of any order, decree or judgment of the court in this behalf, and for these purposes shall have all the powers, both at common law and in equity, of a superior court of original jurisdiction.

Supreme Court may enforce this section.

12. So much of the Act and contract hereinabove cited and referred to as is inconsistent with the provisions of this Act, is hereby repealed.

Inconsistent enactments repealed.



47 VIC., CHAP. 5.

An Act for giving effect to an agreement therein mentioned between the Government of the Dominion and that of Nova Scotia.

[Assented to 19th April, 1884.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Purchase by Government of a certain railway and equipment, &c., authorized.

1. The Government of Canada may, under an order of the Governor in Council, purchase and acquire for the Dominion, from the Government of Nova Scotia, the Eastern Extension Railway from New Glasgow to the Gut of Canso, and the steam ferry in connection therewith, together with the rights of the said Province in the Truro and Pictou Branch Railway, for the sum of one million two hundred thousand dollars, and the new rolling stock and equipments of the said railway for a sum equal to the cost thereof and charges. —the said sums, with interest thereon at six and one-half per cent. per annum from the first day of October, one thousand eight hundred and eighty-three, to be payable out of the Consolidated Revenue Fund of Canada : Provided, that the necessary legislative provisions shall have been made by Nova Scotia for giving effect to the said purchase and acquisition, according to the agreement between the two Governments to that effect, laid before Parliament on the sixth day of February, one thousand eight hundred and eighty-four, and that the accounts between the two Governments in connection with the said purchase shall have been previously settled to the satisfaction of the Government of Canada.

Proviso : preliminary conditions required.

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47 VIC., CHAP. 6.

An Act respecting the Vancouver Island Railway, the Esquimalt Graving Dock, and certain Railway Lands of the Province of British Columbia, granted to the Dominion.

[Assented to 19th April, 1884.]

WHEREAS negotiations between the Governments of Preamble.
Canada and British Columbia have been recently pending, relative to delays in the commencement and construction of the Canadian Pacific Railway, and relative to the Vancouver Island Railway, the Esquimalt Graving Dock, and certain railway lands of the Province of British Columbia ;

And whereas, for the purpose of settling all existing disputes and difficulties between the two Governments, it hath been agreed as follows :— Recital of agreement as to—

(a.) The Legislature of British Columbia shall be invited Lands on mainland of British Columbia.
to amend the Act number eleven, of one thousand eight hundred and eighty, intituled : “ *An Act to authorize the grant of certain public lands on the Mainland of British Columbia to the Government of the Dominion of Canada for Canadian Pacific Railway purposes,*” so that the same extent of land on each side of the line of railway through British Columbia, wherever finally settled, shall be granted to the Dominion Government in lieu of the lands conveyed by that Act :

(b.) The Government of British Columbia shall obtain the Lands on Vancouver Island.
authority of the Legislature to grant to the Government of Canada a portion of the lands set forth and described in the Act, number fifteen, of one thousand eight hundred and eighty-two, intituled : “ *An Act to incorporate the Vancouver Land and Railway Company,*” namely, that portion of the said lands therein described, commencing at the southern boundary thereof and extending to a line running east and west, half way between Comox and Seymour Narrows ; and also a further portion of the lands conveyed by the said Act to the northward of and contiguous to that portion of the said lands last hereinbefore specified, equal in extent to the lands within the limits thereof which may have been alienated from the Crown by Crown grants, pre-emption or otherwise :

Lands in
Peace River
district.

(c.) The Government of British Columbia shall obtain the authority of the Legislature to convey to the Government of Canada three and one-half millions of acres of land in the Peace River District of British Columbia, in one rectangular block, east of the Rocky Mountains and adjoining the North-West Territories of Canada :

Incorporation
of railway
company on
Island.

(d.) The Government of British Columbia shall procure the incorporation, by Act of their Legislature, of certain persons, to be designated by the Government of Canada, for the construction of the railway from Esquimalt to Nanaimo :

Grant of
land by
Canada for
railway from
Esquimalt to
Nanaimo.

(e.) The Government of Canada shall, upon the adoption by the Legislature of British Columbia of the terms of this agreement, seek the sanction of Parliament to enable them to contribute to the construction of a railway from Esquimalt to Nanaimo, the sum of seven hundred and fifty thousand dollars, and they agree to hand over to the contractors who may build such railway the lands which are or may be placed in their hands for that purpose by British Columbia ; and they agree to take security, to the satisfaction of the Government of that Province, for the construction and completion of such railway on or before the tenth day of June, one thousand eight hundred and eighty-seven,—such construction to commence forthwith :

Security for
construction.

Administra-
tion of lands
for such rail-
way granted
by British
Columbia.

(f.) The lands on Vancouver Island to be so conveyed shall, except as to coal and other minerals, and also except as to timber lands as hereinafter mentioned, be open for four years from the passing of this Act to actual settlers, for agricultural purposes, at the rate of one dollar an acre, to the extent of one hundred and sixty acres to each such actual settler ; and in any grants to settlers the right to cut timber for railway purposes and rights of way for the railway and stations and workshops shall be reserved ; in the meantime, and until the railway from Esquimalt to Nanaimo shall have been completed, the Government of British Columbia shall be the agents of the Government of Canada for administering for the purposes of settlement the lands in this sub-section mentioned ; and for such purposes the Government of British Columbia may make and issue, subject as aforesaid, pre-emption records to actual settlers of the said lands : all moneys received by the Government of British Columbia in respect of such administration shall be paid, as received, into the Bank of British Columbia, to the credit of the Receiver General of Canada ; and such moneys, less expenses incurred, if any, shall, upon the completion of the railway to the satisfaction of the Dominion Government, be paid over to the railway contractors :

Provincial
Government
to act as
agent for
Government
of Canada.

As to moneys
received
under such
agency.

Purchase and
completion by
Canada of
dry dock at
Esquimalt.

(g.) The Government of Canada shall forthwith take over and seek the authority of Parliament to purchase and complete, and shall, upon the completion thereof, operate as a Dominion work, the dry dock at Esquimalt ; and shall be entitled to have conveyed to them all the lands, approaches and plant belonging thereto, together with the Imperial

appropriation therefor, and shall pay to the Province as the price thereof the sum of two hundred and fifty thousand dollars, and shall further pay to the Province whatever amounts shall have been expended by the Provincial Government or which remain due up to the time of the passing of this Act, for work or material supplied by the Government of British Columbia since the twenty-seventh day of June, one thousand eight hundred and eighty-two :

(h.) The Government of Canada shall, with all convenient speed, offer for sale the lands within the railway belt upon the mainland, on liberal terms to actual settlers ; and—

Sale of
railway lands
on mainland.

(i.) Shall give persons who have squatted on any of the said lands, within the railway belt on the mainland, prior to the passing of this Act, and who have made substantial improvements thereon, a prior right of purchasing the lands so improved at the rates charged to settlers generally :

Provision as
to squatters,
&c.

(k.) This agreement is to be taken by the Province in full of all claims up to this date by the Province against the Dominion, in respect of delays in the commencement and construction of the Canadian Pacific Railway, and in respect of the non-construction of the Esquimalt and Nanaimo Railway, and shall be taken by the Dominion Government in satisfaction of all claims for additional lands under the terms of Union, but shall not be binding unless and until the same shall have been ratified by the Parliament of Canada and the Legislature of British Columbia ;

Agreement to
be settlement
in full of cer-
tain claims
of British
Columbia on
Canada.

And whereas the Legislature of British Columbia, has by an Act assented to on the nineteenth day of December, one thousand eight hundred and eighty-three, intituled, "*An Act relating to the Island Railway, the Graving Dock and railway lands of the Province,*" adopted the terms of the said agreement, and it is expedient that it should be ratified by the Parliament of Canada, and that provision should be made to carry out the terms thereof according to their purport :

Ratification
of agreement
by British
Columbia.

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. The hereinbefore recited agreement is hereby approved and ratified.

And by
Canada.

THE ESQUIMALT AND NANAIMO RAILWAY.

2. The agreement, a copy of which, with specification, is hereto appended as a schedule, for the construction, equipment, maintenance and working of a continuous line of railway of a uniform gauge of four feet, eight and one-half inches, from Esquimalt to Nanaimo in Vancouver Island, British Columbia, and also for the construction, equipment, maintenance and working of a telegraph line along the line of the said railway, is hereby approved and ratified, and the

Agreement
for construc-
tion of rail-
way ratified.

Governor in Council is authorized to carry out the provisions thereof according to their purport.

Subsidy of \$750,000 and land towards construction of railway.

With certain rights connected with the lands.

Conditions of payment of subsidy to company.

Further conditions for plans, profiles and estimates.

Percentage to be retained until completion and approval of work.

3. The Governor in Council may grant to "The Esquimalt and Nanaimo Railway Company," mentioned in the said agreement and incorporated by the Act of the Legislature of British Columbia lastly hereinbefore referred to, in aid of the construction of the said railway and telegraph line, a subsidy in money of seven hundred and fifty thousand dollars, and in land, all of the land situated on Vancouver Island, which has been granted to Her Majesty by the Legislature of British Columbia by the Act last aforesaid, in aid of the construction of the said line of railway, in so far as such land shall be vested in Her Majesty and held by her for the purposes of the said railway, or to aid in the construction of the same; and also all coal, coal oil, ores, stones, clay, marble, slate, mines, minerals and substances whatsoever in, on or under the lands so to be granted to the said Company as aforesaid, and the foreshore rights in respect of all such lands as aforesaid, which are to be granted to the said Company as aforesaid, and which border on the sea, together with the privilege of mining under the foreshore and sea opposite any such land, and of mining and keeping for their own use all coal and minerals, herein mentioned, under the foreshore or sea opposite any such lands, in so far as such coal, coal oil, ores, stones, clay, marble, slate, mines, minerals and substances whatsoever, and foreshore rights are vested in Her Majesty as represented by the Dominion Government.

4. The said money subsidy shall be paid to the said Company by instalments, on the completion of each ten miles of railway and telegraph line, such instalments to be proportionate to the value of the part of the lines completed and equipped in comparison with the whole of the works undertaken, the proportion to be established by the report of the Minister of Railways and Canals.

5. The said Company shall furnish profiles, plans and bills of quantities of the whole line of railway in ten mile sections, and before the work is commenced on any ten mile section, such profiles, plans and bills of quantities shall be approved by the Governor in Council; and before any payments are made the said Company shall furnish such further returns as may be required to satisfy the Minister of Railways and Canals as to the relative value of the works executed, with that remaining to be done.

6. The Minister of Railways and Canals shall retain five per centum of the subsidy, or of such part thereof as the said Company may be entitled to, for three months after the completion of the said railway and telegraph line and the

works appertaining thereto, and for a further period until the said Minister is satisfied that all failures or defects in the said line of railway and telegraph line, respectively, and the works appertaining thereto, that may have been discovered during the said period of three months, or such further period, have been permanently made good, and no land shall be conveyed to the said Company until the road is fully completed and equipped.

7. The land grant shall be made, and the land, in so far as the same shall be vested in Her Majesty and held by Her Majesty for the purposes of the said railway, or to aid in the construction of the same, shall be conveyed to the said Company upon the completion of the whole work to the entire satisfaction of the Governor in Council, but so, nevertheless, that the said lands and the coal oil, coal and other minerals and timbers thereunder, therein or thereon, shall be subject in every respect to the following provisions :—

1. The lands to be so conveyed shall, except as to coal and other minerals, and also except as to timber lands as hereinafter mentioned, be open for four years from the nineteenth day of December, in the year of our Lord, one thousand eight hundred and eighty-three, to actual settlers, for agricultural purposes, at the rate of one dollar an acre, to the extent of one hundred and sixty acres to each such actual settler ; grants thereof shall be made under the Great Seal, and in any such grants the right to cut timber for railway purposes and rights of way for the railway and stations and workshops shall be reserved ; in the meantime, until the railway from Esquimalt to Nanaimo shall have been completed, the Government of British Columbia shall be the agent of the Government of Canada, for administering, for the purposes of settlement, the lands in this subsection mentioned ; and for such purposes the Government of British Columbia may make and issue, subject as aforesaid, pre-emption records to actual settlers of the said lands ; all moneys received by the Government of British Columbia in respect of such administration shall be paid, as received, into the Bank of British Columbia, to the credit of the Receiver General of Canada ; and such moneys, less expenses incurred, if any, shall, upon the completion of the railway to the satisfaction of the Dominion Government, be paid over to the railway company :

2. Every *bona fide* squatter who has continuously occupied and improved any of the lands within the tract of land to be acquired by the Company from the Dominion Government for a period of one year prior to the first day of January, one thousand eight hundred and eighty-three, shall be entitled to a grant of the freehold of the surface rights of the said squatted land, to the extent of one hundred and sixty acres, at the rate of one dollar per acre :

Provisions as to conveyance of land granted to company.

Subject to certain conditions.

Grants thereof to settlers.

Government of British Columbia to act as agent in respect of such grants until completion of railway.

Provisions as to squatters.

As to sale of
coal got from
lands by
company.

3. The said Company shall, at all times, sell coals gotten from the lands that may be acquired by them from the Dominion Government to any Canadian railway company having the terminus of its railway on the seaboard of British Columbia, and to the Imperial, Dominion and Provincial authorities, at the same rates as may be charged to any railway company owning or operating any railway in the United States, or to any foreign customer whatsoever :

Timbered
lands.

4. All lands acquired by the said Company from the Dominion Government under this Act, containing belts of timber fit for milling purposes, shall be sold at a price to be hereafter fixed by the Government of the Dominion, or by the said Company :

Existing
rights saved.

5. The existing rights, if any, of any persons or corporations in any of the lands so to be acquired by the Company, shall not be affected by this Act.

Admission of
certain arti-
cles for rail-
way free of
duty.

8. All steel rails, fish-plates and other fastenings, spikes, bolts and nuts, wire, timber and all material for bridges, to be used in the original construction of the said railway and of the telegraph line in connection therewith, and all telegraphic apparatus required for the first equipment of such telegraph line, shall be admitted into Canada free of duty.

Commence-
ment and
completion of
railway and
telegraph
line.

9. The said Company shall commence the works included in the annexed schedule forthwith, and shall complete and equip the said railway and telegraph line by the tenth day of June, one thousand eight hundred and eighty-seven ; and in default of such completion and equipment, as aforesaid, on or before the last mentioned date, the said Company shall forfeit all right, claim or demand to the sum of money and percentage retained by the Minister of Railways and Canals, and any and every part thereof,—to any moneys whatever which may be, at the time of the failure of the completion, as aforesaid, due or owing from Her Majesty to the said company,—to the land grant,—and also to the moneys deposited as security for the construction of the said railway and telegraph line.

Forfeiture in
case of
default.

THE ESQUIMALT GRAVING DOCK.

Purchase of
and payment
for the Esqui-
malt dry
dock.

10. The Government of Canada may purchase and complete, and shall, upon the completion thereof, operate as a Dominion work, the dry dock at Esquimalt, and shall be entitled to and have conveyed by the Government of British Columbia to Her Majesty, for Canada, all the lands, approaches, and plant belonging thereto, together with the Imperial appropriation therefor, and shall pay to the Province of British Columbia as the price thereof the sum of two hundred and fifty thousand dollars, and shall further pay to the said Province whatever amounts shall have been expended by the Government of that Province, or which

remain due by it up to the time of the passing of this Act, for work or material performed or supplied by the said Government in respect of the said dock and works since the twenty-seventh day of June, one thousand eight hundred and eighty-two.

* * * * *

PAYMENTS FROM CONSOLIDATED REVENUE FUND.

13. All payments authorized by this Act shall shall be made out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada.

Payments out
of Con. Rev.
Fund.

CIVIL AND CRIMINAL JURISDICTION.

14. Until the boundary line between British Columbia and the North-West Territories is finally settled and located, and such settlement and location is published in the *Canada Gazette*, the courts of the said Province shall have civil and criminal jurisdiction in and over all the territory west of the line laid down in Trutch's map of eighteen hundred and seventy-one, as the eastern boundary of the Province, and the continuation of that line along the one hundred and twentieth meridian of the west longitude until it reaches the northern boundary of the Province ; and all offences committed in any part of the said territory may be stated in any warrant, indictment or other legal instrument or proceeding to have been committed in British Columbia.

Jurisdiction
in criminal
cases.

SCHEDULE.

ARTICLES OF AGREEMENT made and entered into this twentieth day of August, in the year of our Lord, one thousand eight hundred and eighty-three :

Between Robert Dunsmuir, James Dunsmuir and John Bryden, all of Nanaimo, in the Province of British Columbia ; Charles Crocker, Charles F. Crocker, and Leland Stanford, all of the city of San Francisco, California, United States of America ; and Collis P. Huntington, of the city of New York, United States of America, of the first part ; and Her Majesty Queen Victoria, represented herein by the Minister of Railways and Canals, of the second part :

Whereas it has been agreed by and between the Governments of Canada and British Columbia, that the Government of British Columbia should procure the incorporation, by an Act of their Legislature, of certain persons to be designated by the Government of Canada, for the construction of a railway from Esquimalt to Nanaimo, and that the Government of Canada should take security from such Company for the construction of such railway :

And whereas the parties hereto of the first part, are associated together for the purpose of constructing or contracting for the construction of a railway and telegraph line from Esquimalt to Nanaimo, and are hereafter referred to as the said contractors :

NOW THESE PRESENTS WITNESS, that in consideration of the covenants and agreements on the part of Her Majesty hereinafter contained, the said contractors covenant and agree with Her Majesty as follows :—

1. In this contract the word “work” or “works” shall, unless the context requires a different meaning, mean the whole of the works, material, matter and things to be done, furnished and performed by the said contractors under this contract.

2. All covenants and agreements herein contained shall be binding on and extend to the executors, administrators and assigns of the said contractors, and shall extend and be binding upon the successors of Her Majesty ; and wherever in this contract Her Majesty is referred to, such reference shall include Her successors ; and wherever the said contractors are referred to, such reference shall include their executors, administrators and assigns.

3. That the said contractors shall and will well, truly and faithfully lay out, make, build, construct, complete, equip, maintain and work continuously a line of railway of a uniform gauge of four feet eight and a-half inches, from Esquimalt to Nanaimo, in Vancouver Island, British Columbia, the points and approximate route and course being shown on the map hereunto annexed, marked B, and also construct, maintain and work continuously a telegraph line throughout and along the said line of railway, and supply all such telegraphic apparatus as may be required for the proper equipment of such telegraph line, and perform all engineering services, whether in the field or in preparing plans or doing other office work, to the entire satisfaction of the Governor in Council.

4. That the said contractors shall and will locate and construct the said line of railway in as straight a course as practicable, between Esquimalt and Nanaimo, with only such deviations as may seem absolutely indispensable to avoid serious engineering obstacles, and as shall be allowed by the Governor in Council.

5. That the gradients and alignments shall be the best that the physical features of the country will admit of, without involving unusually or unnecessarily heavy works of construction, with respect to which the Governor in Council shall decide.

6. That the said contractors shall and will furnish profiles, plans and bills of quantities of the whole line of railway in ten mile sections, and that before the work is commenced on any ten mile section, such profiles, plans and bills of quantities shall be approved by the Governor in

Council, and before any payments are made the said contractors will furnish such further returns as may be required to satisfy the Minister of Railways and Canals as to the relative value of the works executed with that remaining to be done.

7. That the Minister of Railways and Canals may keep and retain five per cent. of the subsidy, or of such part thereof as the said contractors may be entitled to, for three months after the completion of the said railway and telegraph line and the works appertaining thereto, and for a further period, until the said Minister of Railways and Canals is satisfied that all failures or defects in said line of railway and telegraph line, respectively, and the works appertaining thereto that may have been discovered during the said period of three months, or such further period, have been permanently made good, and that no lands shall be conveyed to the said contractors until the road is fully completed and equipped.

8. That the said contractors shall commence the works embraced in this contract forthwith, and shall complete and equip the same by the tenth day of June, eighteen hundred and eighty-seven, time being declared material and of the essence of the contract, and in default of such completion and equipment, as aforesaid, on or before the last mentioned date, the said contractors shall forfeit all right, claim or demand to the sum of money and percentage hereinbefore agreed to be retained by the Minister of Railways and Canals, and any and every part thereof, and also to any moneys whatever which may be, at the time of the failure of the completion as aforesaid, due or owing to the said contractors, as also to the land grant, and also to the moneys to be deposited as hereinafter mentioned.

9. That the said contractors will, upon and after the completion and equipment of the said line of railway and works appertaining thereto, truly and in good faith keep and maintain the same, and the rolling stock required therefor, in good and efficient working and running order, and shall continuously and in good faith operate the same, and also the said telegraph line and will keep the said telegraph line and appurtenances in good running order.

10. That the said contractors will build, construct, complete and equip the said line of railway and works appertaining thereto in all respects in accordance with the specification hereunto annexed marked A, and upon the line of location to be approved by the Governor in Council.

11. The character of the railway and its equipments shall be in all respects equal to the general character of the Canadian Pacific Railway, now under construction in British Columbia, and the equipments thereof.

12. And that the said line of railway and telegraph line, and all works appertaining thereto respectively, together with all franchises, rights, privileges, property, personal and real estate of every character appertaining thereto, shall

upon the completion and equipment of the said line of railway and works appertaining thereto, in so far as Her Majesty shall have power to grant the same respectively, but no further or otherwise, be the property of the said contractors.

13. And Her Majesty in consideration of the premises, hereby covenants and agrees to permit the admission free of duty of all steel rails, fish-plates and other fastenings, spikes, bolts and nuts, wire, timber, and all material for bridges to be used in the original construction of the railway, and of a telegraph line in connection therewith, and all the telegraphic apparatus required for the first equipment of such telegraph line; and to grant to the said contractors a subsidy in money of \$750,000 (seven hundred and fifty thousand dollars), and in land, all of the land situated on Vancouver Island (except such parts thereof as may have, at any time heretofore, been reserved for naval or military purposes, it having been intended that all of the lands so reserved should be excluded from the operation of the Act passed by the Legislature of the Province of British Columbia, in the year 1883, entitled "*An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province*," in like manner as Indian reserves are excluded therefrom), which has been granted to Her Majesty by the Government of British Columbia by the aforesaid Act in consideration of the construction of the said line of railway, in so far as such lands shall be vested in Her Majesty, and held by her for the purposes of the said railway, or for the purpose of constructing or to aid in the construction of the same, and also all coal, coal oil, ores, stones, clay, marble, slate, mines, minerals and substances whatsoever in, on or under the lands so agreed to be granted to the said contractors as aforesaid, and the foreshore rights in respect of all such lands as aforesaid, which are hereby agreed to be granted to the said contractors as aforesaid, and border on the sea, together with the privilege of mining under the foreshore and sea opposite any such land, and of mining and keeping for their own use all coal and minerals (herein mentioned) under the foreshore or sea opposite any such lands, in so far as such coal, coal oil, ores, stones, clay, marble, slate, mines, minerals and substances whatsoever, and foreshore rights are owned by the Dominion Government,—for which subsidies the construction of the railway and telegraph line from Esquimalt to Nanaimo shall be completed, and the same shall be equipped, maintained and operated.

14. The said money subsidy will be paid to the said contractors by instalments, on the completion of each ten miles of railway and telegraph line, such instalments to be proportionate to the value of the part of the lines completed and equipped in comparison with the whole of the works undertaken,—the proportion to be established by the report of the Minister of Railways and Canals.

15. The land grant shall be made, and the land, in so far as the same shall be vested in Her Majesty and held by Her Majesty for the purposes of the said railway, or for the purposes of constructing or to aid in the construction of the same, shall be conveyed to the said contractors upon the completion of the whole work to the entire satisfaction of the Governor in Council, but so, nevertheless, that the said lands, and the coal oil, coal and other minerals, and timber thereunder, therein or thereon, shall be subject in every respect to the several clauses, provisions and stipulations referring to or affecting the same, respectively, contained in the aforesaid Act passed by the Legislature of the Province of British Columbia, in the year 1883, intituled, "*An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province*," as the same may be amended by the Legislature of the said Province, in accordance with a draft bill now prepared, which has been identified by Sir Alexander Campbell and the Hon. Mr. Smithe, and signed by them and placed in the hands of the Hon. Joseph William Trutch, and particularly to sections twenty-three, twenty-four, twenty-five and twenty-six of the said Act.

And it is hereby further agreed by and between Her Majesty, represented as aforesaid, and the said contractors that the said contractors shall, within ten days after the execution hereof by Her Majesty, represented as aforesaid, or by the said Minister on behalf of Her Majesty, apply to the Government of Canada to be named by the Governor in Council as the persons to be incorporated under the name of the Esquimalt and Nanaimo Railway Company; and that immediately after the said contractors shall have been so incorporated, this contract shall be signed and transferred by them to the said company, and such company shall forthwith, by deed entered into by and between Her Majesty, represented as aforesaid, and the said company, assume all the obligations and liabilities incurred by the said contractors hereunder or in any way in relation to the premises.

The said contractors shall, on the execution hereof, deposit with the Receiver General of Canada the sum of \$250,000 (two hundred and fifty thousand dollars) in cash as a security for the construction of the railway and telegraph line hereby contracted for; the Government shall pay to the contractors interest on the cash deposited at the rate of four per cent. per annum, half-yearly, until default in the performance of the conditions hereof or until the return of the deposit, and shall return the deposit to the said contractors on the completion of the said railway and telegraph line according to the terms hereof, with any interest accrued thereon; but if the said railway and telegraph line shall not be so completed, such deposit and all interest thereon which shall not have been paid to the contractors shall be forfeited to Her Majesty for the use of the

Government of the Dominion of Canada. In witness whereof, the parties hereto have executed these presents, the day and year first above written.

For the Minister of Railways and Canals.

(Signed),	A. CAMPBELL,
	<i>Minister of Justice.</i>
(Signed),	ROBERT DUNSMUIR,
"	JOHN BRYDEN,
"	JAMES DUNSMUIR,
"	CHARLES CROCKER,
"	CHARLES F. CROCKER,
"	LELAND STANFORD,
	by Chas. Crocker his Attorney in fact.
"	COLLIS P. HUNTINGTON.
	by Chas. Crocker his Attorney in fact.

Signed, sealed and delivered by the within named Robert Dunsmuir, James Dunsmuir, John Bryden, Charles Crocker, Chas. F. Crocker, Leland Stanford and Collis P. Huntington, and by Sir Alexander Campbell for the Minister of Railways and Canals, as an escrow, and placed in the hands of the Honorable Joseph William Trutch, until the sanction of Parliament shall have been obtained to the payment of the subsidy and to the other stipulations on the part of the Dominion herein contained requiring its sanction, and until the Act passed by the Legislature of the Province of British Columbia, in the year one thousand eight hundred and eighty-three, intituled "*An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province,*" shall have been amended by the Legislature of the said Province in accordance with a draft bill now prepared and which has been identified by Sir Alexander Campbell and the Honorable Mr. Smithe and signed by them and deposited in the hands of the said Joseph William Trutch, in the presence of

(Signed), H. G. HOPKIRK.

A.

(THIS IS THE SPECIFICATION MARKED A REFERRED TO IN THE CONTRACT HERETO ANNEXED, DATED THIS 20TH AUGUST, 1883.)

SPECIFICATION for a line of railway from Esquimalt to Nanaimo, in Vancouver Island in British Columbia.

1. The railway shall be a single line, with gauge four feet eight and a-half inches, with necessary sidings.

2. The alignments, gradients and curvatures shall be the best that the physical features of the country will admit of, the maximum grade not to exceed eighty feet to the mile,

and the minimum curvature not to be of less radius than eight hundred feet.

3. In all wooded sections the land must be cleared to the width of fifty feet on each side of the centre of line.

All brush and logs must be completely burnt up, and none thrown on to the adjacent lands.

4. All stumps must be grubbed out within the limits of cuttings under three feet in depth or embankments less than two feet in depth.

5. All stumps must be close-cut where embankments are less than four feet and more than two feet in height.

6. Through settlements, the railway must be enclosed with substantially built legal fences.

7. Road crossings, with cattle guards and sign boards, shall be provided wherever required.

8. The width of cuttings at formations shall be twenty feet, embankments sixteen feet.

9. Efficient drainage must be provided either by open ditches or under drains.

10. All bridges, culverts and other structures must be of ample size and strength for the purpose intended. Piers and abutments of bridges must be either of substantial massive stone masonry, iron or wood, and in every essential particular, equal to the best description of like works employed in the construction of the Canadian Pacific Railway in British Columbia. Arched culverts must be of good solid masonry, equal in every respect to similar structures designed for the Canadian Pacific Railway in British Columbia. Box culverts must be of either masonry, iron or wood.

11. The passenger station houses, freight sheds, work-shops, engine houses, other buildings and wharves, shall be sufficient in number and size to efficiently accommodate the business of the road, and they shall be either stone, brick or timber, of neat design, substantially and strongly built.

12. The rails shall be of steel, weighing not less than fifty pounds per lineal yard of approved section, and with the most approved fish-plate joints.

13. The roadway must be well ballasted with clean gravel or other suitable material.

14. Sufficient siding accommodation shall be provided by the contractors, as may be necessary to meet the requirements of the traffic.

15. Sufficient rolling stock, necessary to accommodate the business of the line, shall be provided by the contrac-

tors, with stations and terminal accommodations, including engine sheds, turn-tables, shops, water tanks, machinery, wharves, &c.

A. CAMPBELL,
Minister of Justice,
for the Minister of Railways and Canals.

ROBERT DUNSMUIR.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most
Excellent Majesty



47 VIC., CHAP. 8.

An Act to authorize certain subsidies and grants for and in respect of the construction of the lines of railway therein mentioned.

[Assented to 19th April, 1884.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Governor in Council may grant the subsidies hereinafter mentioned, to and for the parties, railways and railway companies hereinafter mentioned, that is to say:—

Subsidies may be granted in respect of the railways hereinafter mentioned.

To the Government of the Province of Quebec, in consideration of their having constructed the railway from Quebec to Ottawa, forming a connecting line between the Atlantic and Pacific coasts *viâ* the Intercolonial and Canadian Pacific Railways, and being, as such, a work of national and not merely Provincial utility, a subsidy not exceeding \$6,000 per mile for the portion between Quebec and Montreal, 159 miles, nor exceeding in the whole..... \$ 954,000

And for the portion between Montreal and Ottawa, 120 miles, \$12,000 per mile, nor exceeding in the whole 1,440,000

For the construction of a line of railway connecting Montreal with the harbors of St. John and Halifax by the shortest and best practicable route, after the report of competent engineers, a subsidy not exceeding \$170,000 per annum for fifteen years, or a guarantee of a like sum for a like period as interest on bonds of the company undertaking the work.

For the construction of a line of railway from Oxford Station on the Intercolonial Railway to Sydney or Louisburg, a subsidy not exceeding \$30,000 per annum for fifteen years, or a guarantee of a like sum for a like period as interest on the bonds of the company undertaking the work, in addition to the

subsidies previously granted, and also a lease or transfer to such company of the Eastern Extension Railway from New Glasgow to Canso, with its present equipment.	
To the Quebec Central Railway Company for a line of railway from Beauce Junction to the International Boundary line, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole	211,200
For the extension of the Canadian Pacific Railway, from its terminus at St. Martin's Junction, near Montreal, or some other point on the Canadian Pacific Railway to the harbor of Quebec, in such manner as may be approved by the Governor in Council, a subsidy not exceeding \$6,000 per mile, nor exceeding in the whole.....	960,000
To the Irondale, Bancroft and Ottawa Railway Company, for a line of railway from the Victoria branch of the Midland Railway to the village of Bancroft, in the township of Dungannon, county of Hastings, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	160,000
To the Pontiac Pacific Junction Railway for a line of railway from Hull or Aylmer to Pembroke, provided the Ottawa River is crossed at some point not east of Lapasse, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	272,000
To the Gatineau Railway Company, for a line of railway from Kazuabazua to Le Desert, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	160,000
To the Napanee, Tamworth and Quebec Railway Company, for a line of railway from Tamworth to Bogart and Bridgewater, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	70,400
To the Montreal and Western Railway Company, for a line of railway from the end of the line subsidized in the now last Session of Parliament, towards Le Desert, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	160,000
To the Northern and Western Railway Company, for a line of railway from Fredericton to the Miramichi River, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole (instead of the subsidy proposed in 1883)....	128,000
To the Erie and Huron Railway Company, for a line of railway from Wallaceburg to Sarnia,	

a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	96,000
To the Ontario and Pacific Railway Company, for a line of railway from Cornwall to Perth, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	262,400
To the Kingston and Pembroke Railway Company, for a line of railway from Mississippi to Renfrew, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	48,000
To the Great Northern Railway Company, for that portion of their railway between St. Jerome and New Glasgow, in the county of Terrebonne, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	32,000
For a line of railway and bridge between the Jacques Cartier Union Railway Junction with the Canadian Pacific Railway and St. Martin's Junction, connecting the Jacques Cartier Union Railway with the North Shore Railway proper, a subsidy not exceeding in the whole.....	200,000
For a line of railway from Richibucto to St. Louis, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	22,400
For a line of railway from Hopewell to Alma, in the Province of New Brunswick, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole	51,200
For a line of railway from St. Andrews to Lachute, in the county of Argenteuil, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	22,400
For a line of railway from the Grand Piles, on the River St. Maurice, to Lake Edward, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	217,600
For a line of railway from Annapolis to Digby, in the Province of Nova Scotia, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	64,000
For a line of the Central Railway, from the head of Grand Lake to the Intercolonial Railway, between Sussex and St. John, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole	128,000
To the Caraquet Railway Company, for the extension of their line of railway from Caraquet to Shippegan Harbor, in the Province of New Brunswick, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.	76,800

For a branch of the Intercolonial Railway, from Metapediac eastward, towards Paspébiac, twenty miles, in the Province of Quebec, a sum not exceeding in the whole.....	300,000
For a branch of the Intercolonial Railway, from Derby Station to Indian Town, fourteen miles, a sum not exceeding in the whole.....	140,000

To what companies and on what conditions.

Commencement and completion.

Specification and location.

How payable.

Capitalization of subsidies to Quebec.

Government works.

Proviso: as to running powers.

The subsidies hereinbefore mentioned as to be granted to companies named for that purpose, shall be granted to such companies respectively; the other subsidies shall be granted to such companies as shall be approved by the Governor in Council as having established, to his satisfaction, their ability to construct and complete the said railways, respectively. All the lines for the construction of which subsidies are granted shall be commenced within two years from the first day of July next and completed within a reasonable time, not to exceed four years, to be fixed by Order in Council, except the line mentioned in the fourth section of this Act, which shall be commenced within one year, and shall also be constructed according to descriptions and specifications and upon conditions to be approved by the Governor in Council, on the report of the Minister of Railways and Canals, and specified in an agreement to be made in each case by the Company with the Government, and which the Government is hereby empowered to make; the location also of every such line of railway shall be subject to the approval of the Governor in Council; and all the subsidies respectively shall be payable out of the Consolidated Revenue Fund of Canada, by instalments on the completion of each section of the railway of not less than ten miles, proportionate to the value of the portion so completed, in comparison with that of the whole work undertaken, to be established by the report of the said Minister. The subsidies to the Province of Quebec shall be capitalized and the interest shall be payable at such time and in such manner as the Government of Canada shall agree upon with the Government of the said Province. The two subsidies last mentioned in the list are for works to be constructed by the Government of Canada:

Provided always, that the granting of such subsidies to the companies mentioned, respectively, shall be subject to such conditions for securing such running powers or traffic arrangements and other rights, as will afford all reasonable facilities and equal mileage rates to all railways connecting with those so subsidized, as the Governor in Council may determine

Act 46 V., c. 25, amended.

2. The first section of the Act forty-sixth Victoria, chapter twenty-five, is hereby amended by striking out the words, "To the Great American and European Short Line Railway Company," and by substituting the word "the"

for the word "their," which is next after the words so struck out and the words and figures "for 80 miles of," in the same item.

3. The Canadian Pacific Railway Company may, within six months from the passing of this Act, purchase the North Shore Railway from St. Martin's Junction to Quebec, or may obtain control of the same, or may make with the owners of the said railway such arrangements as will allow the said Canadian Pacific Railway Company to extend its railway to Quebec,—failing which, the provisions contained in the three following sections may take effect.

C. P. R. Company may purchase or acquire control of North Shore Railway.

4. And whereas it may become necessary for the construction of a railway in conformity with the intention and purpose of the subsidy for the extension of the Canadian Pacific Railway, from its terminus at St. Martin's Junction, or some other point on the said railway to the harbor of Quebec, that a company should be incorporated with the powers requisite for such construction, and for making financial arrangements for the purposes thereof: Therefore, it is hereby further enacted as follows:—

Recital: as to extension of C. P. R. to Quebec.

For the purpose of incorporating the persons undertaking the construction of the said railway, and those who shall be associated with them in the undertaking, and so soon as a contract shall be made with them by the Canadian Pacific Railway Company for such construction, the Governor may grant to them, under such corporate name as he shall deem expedient, a charter conferring upon them the franchises, privileges and powers requisite for the said purposes, which shall be similar to such of the franchises, privileges and powers granted to railway companies during the present Session, as the Governor shall deem most useful or appropriate to the said undertaking; and such charter, being published in the *Canada Gazette*, with any Order or Orders in Council relating to it, shall have force and effect as if it were an Act of the Parliament of Canada.

Company may be chartered for the construction of such extension.

Form and effect of such charter.

5. The Canadian Pacific Railway Company is hereby authorized, with the authority of a special general meeting of the shareholders thereof, called for the purpose,—such authority being established by the vote of shareholders holding at least two-thirds in amount of the shares represented at such meeting,—to accept and hold a lease in perpetuity of the railway of the company so to be incorporated, and to apply the rent thereof to the payment of the interest upon the bonds or debenture stock which shall be issued by such company, or otherwise to guarantee the payment thereof; and to execute all such deeds or instruments as may be necessary for that purpose.

C. P. R. Company may become the lessee in perpetuity of such railway.

Further provision as to such railway, and application of the subsidy.

6. The extension of the Canadian Pacific Railway referred to in the two next preceding sections, may include any portion of the railway of any other company, which may be acquired, with the approval of the Governor in Council, to form part of such line; and the said subsidy may be made payable either as the work of construction proceeds or converted into a guarantee fund for the payment of interest upon the securities to be issued as charges upon the railway, or otherwise, as may be determined by the Governor in Council.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



47 VIC., CHAP. 9.

An Act to make further provision towards the completion of the Tidal Dock in the Harbor of Quebec.

[Assented to 19th April, 1884.]

HER Majesty, by and with the advice and consent of the Preamble.
Senate and House of Commons of Canada, enacts as follows:—

1. The Governor in Council may raise, by the issue of ^{\$300,000 may} debentures in the manner prescribed by the Act, thirty-sixth ^{be raised and} Victoria, chapter sixty-two, a further sum not exceeding ^{advanced.} three hundred thousand dollars, to be advanced from time to time to the Corporation of the Quebec Harbor Commissioners, towards the completion of their tidal dock in the said harbor, in addition to the sums authorized by the Act above cited, or any subsequent Act, to be advanced to them for the improvement of the said harbor,—any advance under this Act being subject to the payment to the Government of interest thereon, at the rate of four per cent. per annum, in the manner prescribed by the said Act, thirty-sixth Victoria, chapter sixty-two, and subject to all the other provisions thereof.

Subject to
provisions of
36 V., c. 62.

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47 VIC., CHAP. 10.

An Act to authorize the advance of a further sum for completing the Graving Dock in the Harbor of Quebec.

[Assented to 19th April, 1884.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

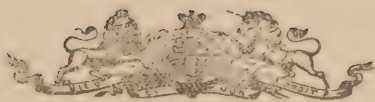
\$150,000 may be raised and advanced in addition to former advances, and subject to provisions of 38 V., c. 56.

1. The Governor in Council may advance, from time to time, to the Corporation of the Quebec Harbor Commissioners, such sum or sums of money, not exceeding in the whole the sum of one hundred and fifty thousand dollars, as may be required to enable them to complete the graving dock now in course of construction in the harbor of Quebec, —such sum or sums to be in addition to any advances already authorized to be made to them for the same purpose, and to be raised and advanced to the said corporation in the same way, and on the the same terms and conditions, and subject to the like provisions as to the application of the net income derived from tolls, rates, duties and dues imposed and received, the payment of interest and the formation of a sinking fund for the re-payment of the moneys advanced under this Act, as are enacted in the Act passed in the thirty-eighth year of Her Majesty's reign, chaptered fifty-six, and intituled : "*An Act respecting the graving dock in the Harbor of Quebec, and authorizing the raising of a loan in respect thereof*," with regard to the sums of which the advance is thereby authorized.

Rate of interest payable to Government.

2. Provided always, that the rate of interest payable by the said corporation to the Government on the sum or sums of money to be advanced to them under this Act shall be four per centum per annum.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



47 VOL., CHAP. 24.

An Act respecting the Territory in dispute between the Dominion of Canada and the Province of Ontario.

[Assented to 19th April, 1884.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. The Governor General in Council may agree that the questions in dispute between the Governments of Canada and of Ontario in respect of the boundaries of Ontario may form the subject of a reference to the Judicial Committee of The Queen's Privy Council, if Her Majesty should be pleased so to order, upon such terms and conditions as His Excellency deems proper, and the decision of the said Judicial Committee shall be final and conclusive, so far as the Parliament of Canada has authority so to declare or enact.

Provision for referring questions respecting disputed boundaries of Ontario to the Judicial Committee of the Privy Council.

2. Until the boundaries of the said Province have been decided under the said reference, the courts, judges, magistrates, sheriffs and other officers of the Province of Ontario, and the courts, judges, magistrates, sheriffs and other officers of the other province or territory in which the locality, in which any question as to the boundaries arises, is claimed to be by the Government of Canada, shall, in respect of all matters within the legislative authority of the Parliament of Canada, have the same jurisdiction and authority in such locality as if such locality were within the province or territory in which such courts, judges, magistrates, sheriffs or other officers have undoubted jurisdiction, and were part of the county, district or bailiwick, over or in which they are entitled to exercise jurisdiction and authority.

Provisional jurisdiction of courts, &c., in respect of matters within jurisdiction of Parliament of Canada.

* * * * *



47 VIC. CHAP. 40.

An Act to amend the Acts fortieth Victoria, chapter forty-nine and forty-fifth Victoria, chapter twenty-four, being Acts relating to Permanent Building Societies and Loan and Savings Companies carrying on business in Ontario.

[Assented to 19th April, 1884.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

40 V., c. 49,
s. 2 repealed.

1. Section two of the Act passed in the fortieth year of the reign of Her Majesty, and chaptered forty-nine, is hereby repealed, and the following is substituted therefor:—

New section
substituted.
As to limita-
tion of money
deposits with,
and debentures of any
society.

"2. The aggregate amount of money deposits in the hands of any such society, together with the amount of its debentures issued and remaining unpaid may be equal to, but shall not, at any time, exceed double the aggregate amount of the paid up, unimpaired, fixed and permanent capital or shares in such society, not liable to be withdrawn therefrom, together with a further sum which may be equal to, but shall not exceed the amount remaining unpaid upon the subscribed, fixed and permanent capital or shares, upon which not less than twenty per cent. has been paid: Provided, that in no case shall the total liabilities of any such society to the public at any time exceed three times the amount actually paid up in respect of fixed and permanent capital or shares in such society, nor shall they at any time exceed the amount of principal remaining unpaid on the mortgages at such time held by such society: Provided, that in estimating the paid up, unimpaired, fixed and permanent capital or shares of any such society, the amount of all loans or advances made by it to its shareholders, upon the security of their stock, shall be deducted therefrom: Provided further, that the amount held by any society on deposit shall not, at any time, exceed the amount of the paid up and unimpaired capital of the society."

Proviso: total
liabilities fur-
ther limited.

Proviso: as to
estimating
liabilities.

Proviso: fur-
ther limit.

Certain pro-
visions of 45
V., c. 24, ex-
plained as to
two-thirds

2. It is hereby declared that so much of the first section of the Act passed in the forty-fifth year of Her Majesty's reign, chaptered twenty-four, and intituled, "*An Act to further amend the law respecting Building Societies and Loan*"

and Savings Companies carrying on business in the Province of Ontario," as requires a vote of not less than two-thirds in value of all the shareholders of the company, given in person or by proxy at any general or special meeting, shall be held to apply only to the increase of the fixed and permanent capital of any company, by the issue of new stock to which any special privileges or rights are attached, different from those possessed by the ordinary shareholders of such company.

votes at
meetings

3. Section twenty-two of chapter fifty-three of the Consolidated Statutes for Upper Canada, as amended by section four of the Act thirty-seventh Victoria, chapter fifty, is hereby repealed, and the following substituted therefor:—

S. 22 of
c. 53, Con.
Stat. U. C.
repealed.

"22. Any such society may purchase mortgages upon real estate, debentures of any society or company incorporated under this Act, or any Act incorporated therewith, debentures of municipal corporations, school sections and school corporations, Dominion or provincial stock or securities; and they may re-sell any such securities as to them shall seem advisable, and for that purpose they may execute such assignments or other instruments as may be necessary for carrying the same into effect; they may also make advances to any person or persons or body corporate, upon any of the above mentioned securities, at such rates of discount or interest as may be agreed upon."

New section.
Power to
hold certain
securities;

And make
advances on
them.

4. The board of directors of any such society or company may appoint one of their number to be managing director thereof; and his remuneration may be provided for by a by-law, which, however, shall have no force or effect till after it has been approved by the shareholders.

Managing
director and
his remunera-
tion.



48-49 VIC., CHAP. 3.

An Act to provide for the taking of a Census in the Province of Manitoba, the North-West Territories and the District of Keewatin.

[Assented to 1st May, 1885.]

Preamble.

WHEREAS it is expedient to provide for the taking of a census in the Province of Manitoba, the North-West Territories and the District of Keewatin: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Interpretation.

1. In this Act, unless the context otherwise requires:—

(a.) The expression “house” includes all ships, vessels, dwellings or places of abode of any kind;

(b.) The expression “Minister” means the Minister of Agriculture.

Census to be taken and when.

2. A census shall be taken in the Province of Manitoba, the North-West Territories and the District of Keewatin, or in such parts of the said Province, Territories and District as the Governor in Council directs, in the year one thousand eight hundred and eighty-five, and before the first day of August, in the year one thousand eight hundred and eighty-six.

Certain matters to be regulated by the Governor in Council.

3. The details of information, the forms to be used, and procedure to be followed for the obtaining thereof, and the period at which, and the dates with reference to which the census shall be taken,—whether generally, or for any specified localities, requiring to be exceptionally dealt with in any of these respects,—shall be such as the Governor in Council, by proclamation, directs.

Details required and on what subjects.

4. The census shall be so taken as to ascertain, with the utmost possible accuracy, in regard to the various territorial divisions of the country,—their population and the classification thereof, as regards age, sex, social condition, religion, education, race, occupation and otherwise,—the houses and other buildings therein, and their classification as dwellings, inhabited, uninhabited, under construction and otherwise,—the occupied land therein, and the condition thereof, as town, village, country, cultivated, uncultivated and other—

wise,—the produce, state and resources of the agricultural, fishing, lumbering, mining, mechanical, manufacturing, trading and other industries thereof,—the municipal, educational, charitable and other institutions thereof,—and whatsoever other matters are specified in the forms and instructions to be issued, as is hereinafter provided.

And others specified in forms, &c.

5. The Minister shall cause all forms, and also all instructions which he deems requisite in respect of the census, to be duly prepared, printed and issued, for use by the persons employed in the taking thereof.

Forms and instructions.

6. The Governor in Council, by proclamation, shall divide the Province of Manitoba, the North-West Territories and the District of Keewatin, or the parts of the said Province, Territories and District, in which the census is directed to be taken as hereinbefore provided, into census districts, and each census district into sub-districts; but the said District of Keewatin may, if the proclamation so prescribes, constitute one census district.

Division of the country into census districts.

Proviso, as to Keewatin.

7. The Governor in Council shall appoint census officers, census commissioners, and other employees who are necessary for the taking of the census, with such relative powers and duties as are laid down for the census by the Governor in Council.

Appointment of officers and commissioners.

8. There shall be appointed, by or under the authority of the Minister, in such manner and subject to such rules in that behalf as are laid down by the Governor in Council, one or more enumerators for each census sub-district; and whenever more enumerators than one are appointed, the powers and duties of such enumerators shall be such as the Minister assigns to each, whether territorially or otherwise.

And of enumerators.

If more than one.

9. The census officers and commissioners shall be entrusted, under direction and instruction of the Minister, with the superintendence of the work assigned to the enumerators, and shall see that all those under their superintendence thoroughly understand the manner in which the duties required of them are to be performed, and use due diligence in the performance thereof.

Duty of census officers and commissioners.

10. Every enumerator, by visiting every house and by careful personal enquiry, shall ascertain, in detail, with the utmost possible accuracy, all the statistical information with which he is required to deal, and no other, and shall make an exact record thereof, and attest the same under oath, and shall see that such attested record is duly delivered to the census commissioner under whose superintendence he is placed,—the whole, in all respects, as by the forms and instructions issued to him is required.

And of enumerators.

Supervision
by commis-
sioner.

11. The census commissioner shall examine all such records, and satisfy himself how far each enumerator has performed the duties required of him, and shall note all apparent defects and inaccuracies in such records, and require the several enumerators concerned therewith to assist him in respect thereof,—and with their assistance shall correct the same so far as is found requisite and possible, noting always whether such corrections are concurred in by them or not, and shall make return, attested under oath, of his doings in the premises, and shall transmit the same, together with all the records in question, to the Minister,—the whole, in all respects, as by the forms and instructions issued to him is required.

Corrections.

Duty of the
Minister as to
corrections.

12. The Minister shall cause all such returns and records to be examined and any defects or inaccuracies discoverable therein to be corrected so far as possible, and shall obtain, so far as possible, by such ways and means as are deemed convenient, any statistical information requisite for the due completion of the census, which cannot be or is not obtained with the required fullness and accuracy by means of such returns and records, and shall cause to be prepared, with all practicable despatch, abstracts and tabular statements showing the results of the census as fully and accurately as possible.

Abstracts
and tables.

Oath of office
to be taken.

13. Every officer, census commissioner, enumerator, and other person employed in carrying this Act into effect, before entering on his duties, shall take and subscribe an oath binding him to the faithful and exact discharge of such duties, which oath shall be in such form, taken before such person, and returned and recorded in such manner as the Governor in Council prescribes.

Wilful neg-
lect of duty a
misdemeanor.

14. Every officer, census commissioner, enumerator or other person employed in carrying this Act into effect, who makes wilful default in any matter required of him by this Act, or wilfully makes any false declaration touching any such matter, is guilty of a misdemeanor.

Custodians of
public records
to grant ac-
cess thereto.

15. Every person who has the custody or charge of any municipal or other public records or documents or of any records or documents of any corporation, from which information sought in respect of the census can be obtained, or which would aid in the completion or correction thereof, shall grant to any census officer, commissioner, enumerator or other person deputed for that purpose by the Minister, reasonable access thereto for the obtaining of such information therefrom; and every such person who wilfully or without lawful excuse refuses or neglects to grant such access, and every person who wilfully hinders or seeks to prevent or obstruct such access, or otherwise in any way

Penalty for
default.
Misdemeanor.

willfully obstructs or seeks to obstruct any person employed in carrying this Act into effect, is guilty of a misdemeanor.

16. Every person who wilfully, or without lawful excuse, refuses or neglects to fill up, to the best of his knowledge and belief, any form which he has been required to fill up by any enumerator or other person employed in carrying this Act into effect, or refuses or neglects to sign and deliver up or otherwise return the same when and as required, or makes, signs, delivers or returns, or causes to be made, signed, delivered or returned, any wilfully false answer or statement as to any matter specified in such form,—shall, for each offence, incur a penalty not exceeding forty dollars and not less than one dollar.

Penalty for neglect or refusal to fill up forms.

17. Every person who, without lawful excuse, refuses or neglects to answer, or who wilfully answers falsely, any question requisite for obtaining any information sought in respect of the census or pertinent thereto, which has been asked of him by any enumerator or other person employed in carrying this Act into effect, shall, for every such refusal or neglect or wilfully false answer, incur a penalty not exceeding twenty dollars and not less than five dollars.

Penalty for neglect or refusal to answer questions.

18. The penalties hereinbefore imposed may be recovered in a summary manner at the suit of any officer, census commissioner, enumerator or other person employed in carrying this Act into effect, before any justice of the peace having jurisdiction in the place where the offence has been committed, on the oath of the prosecutor or of one credible witness; and a moiety thereof shall belong to the Crown for the public uses of Canada, and the other moiety to the prosecutor, unless he has been examined as a witness to prove the offence, in which case the whole shall belong to the Crown for the uses aforesaid.

Recovery of penalties.

Application of penalties.

19. Whenever the Minister deems it convenient, he may, by special letter of instruction, direct any officer, census commissioner or other person employed in carrying this Act into effect, to make enquiry under oath, as to any matter connected with the taking of the census, or the ascertaining or correction of any supposed defect or inaccuracy therein; and such officer, census commissioner or other person shall then have the same power as is vested in any court of justice, of summoning any person, of enforcing his attendance, and of requiring and compelling him to give evidence on oath, either orally or in writing, and to produce such documents and things as such officer, census commissioner or other person deems requisite to the full investigation of such matter or matters.

Minister may direct inquiries to be made as to certain matters.

20. Any letter purporting to be signed by the Minister, or by the deputy of the Minister of Agriculture, or by any other

Certain documents to be *prima facie*

evidence of
the contents
thereof.

person thereunto authorized by the Governor in Council, and notifying any appointment or removal of, or setting forth any instructions to, any person employed in carrying this Act into effect,—and any letter signed by any officer, census commissioner or other person thereunto duly authorized, notifying any appointment or removal of, or setting forth any instructions to any person so employed under the superintendence of the signer thereof,—shall be, respectively, *primâ facie* evidence of such appointment, removal or instructions, and that such letter was signed and addressed as it purports to be.

Presumption
as to certain
documents.

21. Any document or paper, written or printed, purporting to be a form authorized for use in the taking of the census, or to set forth any instructions relative thereto, which is produced by any person employed in carrying this Act into effect, as being such form, or as setting forth such instructions, shall be presumed to have been supplied by the proper authority to the person so producing the same, and shall be *primâ facie* evidence of all instructions therein set forth.

What shall be
a sufficient
requirement
as to filling
and signing
forms.

22. The leaving, by an enumerator, at any house or part of a house, of any form purporting to be issued under this Act, and having thereon a notice requiring that the same be filled up and signed within a stated delay by the occupant of such house or part of a house, or, in his absence, by some other member of the family, shall, as against such occupant, be a sufficient requirement so to fill up and sign such form, though such occupant is not named in such notice, or personally served therewith.

Remunera-
tion of per-
sons em-
ployed.

23. The Minister shall cause to be prepared one or more tables, setting forth the rates of allowances or remuneration for the several census commissioners and enumerators employed in carrying this Act into effect, which rates shall not exceed, in the aggregate, such amount for each day of proved effective service for any enumerator and for each day of like service for any census commissioner, as the Governor in Council directs, and such tables shall be laid before Parliament within the first fifteen days of the session then next ensuing: Provided, that in the settled parts of Manitoba the said rates of allowance or remuneration shall not exceed those paid in the last decennial census.

Payment of
remuneration.

24. Such allowances or remuneration shall be paid to the several persons entitled thereto, in such manner as the Governor in Council directs, but shall not be payable until the services required of the person receiving the same have been faithfully and entirely performed.

Out of what
moneys to be
paid.

25. Such allowances and remuneration, and all expenses incurred in carrying this Act into effect, shall be paid out of such moneys as are provided by Parliament for that purpose.

26. Appointments, employments or service under this Act shall not be subject to the statutory requirements affecting the Civil Service. Civil Service Acts not to apply.

27. A full report of all things done under this Act, and an account of all moneys expended under the authority thereof, shall be laid before Parliament by the Minister within the first fifteen days of the then next session thereof, and of each session thereafter, until such time as all things required to be done under this Act have been fully completed. Report to be laid before Parliament, and when.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



48-49 VIC., CHAP. 5.

An Act to amend the Act forty-fifth Victoria, chapter seventeen, to encourage the construction of Dry Docks.

[Assented to 1st May, 1885.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Sec. 1 of 45
V., c. 17,
amended by
applying it to
the city of
Halifax.

1. The Act intituled, "*An Act to encourage the construction of Dry Docks, by granting assistance on certain conditions to companies constructing them,*" is hereby amended by adding after the word "work," in the second line of the first section thereof, the words, "or in the case of a dock to be constructed at the port of Halifax, the city of Halifax,"—and after the word "company," in the tenth line thereof, the words "or the city of Halifax."

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48-49 VIC., CHAP. 44.

An Act to provide for the fitting representation of Canada at the Colonial and Indian Exhibition, to be held in London in the year 1886.

[Assented to 20th July, 1885.]

WHEREAS it is expedient that Canada should take such part as becomes her position among the Colonies of the Empire, at the proposed Colonial and Indian Exhibition to be held in London, in the year one thousand eight hundred and eighty-six, under the Presidency of His Royal Highness the Prince of Wales, and which will bring prominently under notice the development and progress which have been made in various parts of the British Empire, in products, manufactures and resources, and will afford a wide-spread opportunity of acquiring a more intimate knowledge of the vast fields for enterprise which exist throughout the British Dominions: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. His Excellency the Governor General in Council is hereby authorized to guarantee, on the part of Canada, against any loss resulting from the Exhibition, to the extent of ten thousand pounds sterling, being one-fifth of the whole sum which is proposed to be guaranteed by the Government of India, the Dominion of Canada, and the Colonies represented by agents-general in England,—the money so guaranteed to be held to meet any sum by which the intended Exhibition may fall short of being self-supporting.

Guarantee for expenses not exceeding £10,000 authorized.

OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



48-49 VIC., CHAP. 57.

An Act further to amend the Acts respecting the Canadian Pacific Railway, and to provide for the completion and successful operation thereof.

[Assented to 20th July, 1885.]

Preamble.

WHEREAS the Canadian Pacific Railway Company have represented, that although the advance provided for by the Act of the now last Session of this Parliament, chapter one, is sufficient for the construction and equipment of the railway, according to the provisions of the contract of construction, within the period contemplated by the said Act, yet that the large development of traffic which has already taken place on the line of the railway, and the immediate increase which is expected, render it necessary to provide effectively for the requirements of such traffic upon the completion of the railway, by the improvement of the railway itself, the extension of its station and siding accommodation, the creation of additional terminal facilities at various points thereon, and the provision of additional equipment; that by reason of the stringency of the provisions of the said Act, the Company cannot raise funds for such purposes upon the security of its property, and that it has been unable to sell any part of its shares remaining in the hands of the Government; and the Company have therefore applied for authority to issue first mortgage bonds on their property and franchises, for a re-arrangement of the lien and security created by the said Act thereon, and for a temporary advance to be repaid from the sale of part of the said bonds; and whereas in order that the character of the railway and its facilities for the transport of traffic across the continent may be of the highest possible class, it is expedient to grant the application of the Company, to such extent and in such manner as shall be consistent with the security of the advances already made and to be made to the Company; Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Issue of mortgage bonds to amount of \$35,000,000, at 5 per cent. interest, for

1. The Canadian Pacific Railway Company, under the authority of its shareholders, as provided by the twenty-eighth section of its charter, may issue and deliver to the Government first mortgage bonds to the extent of thirty-five

million dollars, or the equivalent thereof in sterling money of Great Britain, bearing five per cent. per annum interest, for a term not exceeding fifty years--such bonds to constitute and be a first lien and charge on the entire property of the Company, real and personal, now owned or hereafter to be acquired or owned by it (save and except the lands granted or to be granted by the Government to the Company under the contract between Her Majesty and the Company and the Acts relating thereto), including its main line of railway with its tolls and revenues, the extensions thereof, its branch lines of railway (except the Algoma Branch), the whole of its equipment, rolling stock and plant, and all its steamers and vessels; saving always, however, the rights of the holders of the existing mortgages on the extensions of the line of the railway from Callander to Brockville and Montreal, as security for the unpaid balances of the purchase money of the said extensions.

not more than fifty years, as a first charge on property of Company.

Except mortgages on extension from Callander to Brockville and Montreal.

2. The Company may secure the payment of the said bonds and of the interest thereon by a deed of mortgage executed by the Company to trustees to be approved by the Government, with the authority and of the tenor and purport, and containing the conditions, remedies, provisions and powers authorized and provided for by the twenty-eighth section of the charter of the Company, to such extent and in such manner and form as shall be approved by the Governor in Council; and the provisions of the thirty-fifth section of the charter of the Company shall apply to the bonds to be issued, or to any mortgage deed to be executed under this Act.

Bonds may be secured by mortgage deed to trustees, as per sect. 28 of charter of Co.

Sect. 35 of charter to apply.

3. Upon the issue and delivery of the said bonds to the Government, the lien and charge created by the Act forty-seventh Victoria, chapter one, intituled, "*An Act to amend the Act intituled, 'An Act respecting the Canadian Pacific Railway,' and for other purposes,*" upon the railway, revenues and property of the Company affected by the said bonds and by the deed of mortgage securing the same, shall cease to exist, and shall be released and discharged in respect of the railway, revenues and property so affected; and the shares in the capital stock of the Company, to the extent of thirty-five million dollars now in the hands of the Government, shall be cancelled and destroyed; and no further issue of stock shall be made without the special authority of Parliament; but the Algoma Branch shall still remain charged with the lien and charge created by the said Act: and the interest of the Company in any railway lines leased to it, shall also be charged with the said lien and charge to the same extent and in the same manner as if the same had been expressly included, as being so charged, with the property and securities mentioned in the said Act: Provided, that the rights vested in the Canadian Pacific Railway

On issue and delivery of bonds to Government, mortgage under 47 V., c. 7, discharged.

No more stock to be issued. Exemption of Algoma branch.

As to charges on Co's interest in leased lines

Provido: as to power of Co. in respect

of leased
lines.

Company to exercise from time to time any powers granted to any of the companies whose lines are leased to it may be so exercised if and when such exercise is specifically sanctioned by the Governor in Council.

Time for re-
payment of
loan to Co.
by Govern-
ment en-
larged on
certain con-
ditions.

4. The time for the payment of the entire loan to the Company of twenty-nine million, eight hundred and eighty thousand nine hundred and twelve dollars, shall be fixed at the first day of May, one thousand eight hundred and ninety-one; and so long as default shall not occur in the payment of principal or interest at the times when they shall respectively become due, the interest upon the said loan shall be computed at the rate of four per cent. per annum; but the Company may, at any time pay the amount of the said debt or any part thereof in sums of not less than one million dollars; and if such payment be made on account of the sum of twenty million dollars hereinafter mentioned, a corresponding amount of bonds shall be returned to the Company.

Security for
\$20,000,000 of
the said loan
with certain
privileges,
and on cer-
tain condi-
tions in
default of
payment of
interest or
principal.

5. As security for the payment of twenty million dollars of the said loan and of the interest thereon, the Government shall hold and retain twenty million dollars of the said first mortgage bonds, and, in respect of such bonds, shall have all the rights of bondholders, except as to the rate of interest, as provided in the next preceding section; and upon payment of any half-yearly instalment of such interest, the half-yearly coupons attached to the said bonds, corresponding to such half-yearly payment of interest, shall be cancelled and surrendered to the Company; but if the Company makes default in the payment of the interest on the said sum of twenty million dollars, or of the principal thereof, at the time when the same shall become due respectively, the rate of interest upon the whole loan shall thereafter be computed at the rate of five per cent. per annum; and such default shall be equivalent to a default in the payment of the interest on the said bonds, and shall entitle the Government to the same remedies as if default had been made in the payment of the interest or principal of the said bonds; and upon the Company remaining in default in respect of either the principal or interest on the said twenty million dollars for a period of six months, the trustees shall be authorized and empowered to take possession of the property mortgaged and shall exercise all or any of the powers conferred upon them by the terms of the mortgage deed in pursuance thereof, as if the principal of the bonds were in default.

Powers of
such trustees
in such case.

Security for
balance of
\$9,880,912
and interest.

6. As security for the payment of the balance of the said loan, amounting to the sum of nine million eight hundred and eighty thousand nine hundred and twelve dollars, and the interest thereon, the Government shall have a first lien and mortgage, subject to the outstanding land grant bonds,

on the whole of the unsold lands forming the remaining part of the Company's land grant earned and to be hereafter earned, such principal and interest to be paid out of the net proceeds of the sale of such lands; and the Government shall continue to hold and retain the entire amount of land grant bonds now in its custody and possession, as provided by the said Act, applying the moneys applicable to the land grant bonds in the hands of the Government, over and above the sum of five million dollars referred to in the paragraph numbered two of section five of the said Act, to the interest and principal of the said sum of nine million eight hundred and eighty thousand nine hundred and twelve dollars, instead of the purposes provided by the paragraph numbered one of section five of the said Act. And if the net proceeds of such sales, to be made from time to time in due course, shall be insufficient to pay the interest on the said last mentioned amount as the same shall fall due, or the principal thereof when the same shall become due, the Governor in Council may order the sale by the trustees of such lands, or any part thereof, in such manner as shall be fixed by such order, in satisfaction of the interest or principal in respect of which default has occurred; and, after the sale of the whole of such lands, and deficiency in the proceeds thereof to pay the amount charged thereon shall be a charge upon the Company's entire revenue, after providing for its fixed charges, and by preference over the shareholders. And no further or other charge shall be created on the property mortgaged as security for the said first mortgage bonds until the said sum of nine million eight hundred and eighty thousand nine hundred and twelve dollars, and interest, and also the said sum of twenty million dollars, and interest, shall have been paid in full. And after payment out of the proceeds of such lands of the outstanding land grant bonds, and of the said sum of nine million eight hundred and eighty thousand nine hundred and twelve dollars, and interest, the remainder of such lands shall remain charged with a first lien and privilege in favor of the Government as additional security for the payment of the said sum of twenty million dollars, and interest.

Government to retain land grant bonds under 47 V. c. 1.

Application of proceeds of sales by trustees after payment of land grant bonds.

Provision if the proceeds of sales of land are insufficient to pay the interest, or the principal of the said balance when due

No further charge to be created by Co. until the \$29,886,912, and interest are paid.

Provision after payment of land grant bonds outstanding.

7. The Government may make a temporary loan to the Company of five million dollars, to be repaid by the Company to the Government on or before the first day of July, one thousand eight hundred and eighty-six, with interest at the rate of four per cent. per annum, payable on the first day of January and the first day of July, one thousand eight hundred and eighty-six, the Company to have the right to repay the said loan by instalments of not less than one million dollars each, and to receive on the payment thereof a corresponding proportion of the amount of the said bonds held as security therefor; and after reserving

Loan to Co. of five million dollars payable by 1st July, 1886, and security on the first mortgage bonds.

Application of the said bonds after payment of the said loan, to the improvement and extension of the railway, &c.

And so of proceeds of such bonds sold by Co.

Provision if the proceeds of sales of land are insufficient to pay interest or principal on the said balance, &c.

Act 47 V., c. 1 continued.

Provision in case of railway line in U. S. to St. Mary's River, and extension of Algoma branch to railway; postponement of mortgage on branch by Order in Council.

part of the said bonds to the amount of eight million dollars, to be held by the Government as security for the said temporary loan, and to be delivered to the Company on payment to the Government of the said sum of five million dollars, and interest in whole or in part in proportion to such payment, the remainder of the said bonds shall be, from time to time, delivered by the Government to the Company, to be applied by the Company, under the supervision of the Government, to the payment for work done or to be done for the development, improvement and extension of the railway, its connections and equipment, and for the maintenance of the credit and efficiency of the Company generally, to the satisfaction of the Government; and if the bonds in the hands of the Government, or any part thereof, shall be sold by the Company at a price satisfactory to the Government, the proceeds of such sale shall be paid into the hands of the Government in the place and stead of the bonds so sold; and such proceeds shall be dealt with as is hereinbefore provided with respect to the bonds they represent.

8. The proportion of the moneys realized by the trustees of the land grant bonds, applicable under section six of this Act to the payment of the amount of the said bonds held by the Government, over and above the sum of five million dollars in bonds referred to in the said section, and, after the redemption of the land grant bonds, the proceeds of all sales of land granted or to be granted to the Company, under the aforesaid contract, realized as provided by the said Act, shall be applied to the payment of the interest and principal of the said sum of nine million eight hundred and eighty thousand nine hundred and twelve dollars, and, after payment thereof in full, towards the payment to the Government of the interest and principal of the said sum of twenty million dollars.

9. The said Act forty-seventh Victoria, chapter one, shall remain in force, except in so far as it is affected by the provisions hereof.

10. If, at any time, any line connecting with the United States system of railways shall be in course of construction to a point on the River St. Mary's, and there shall be a probability of the early completion thereof, and the Company shall desire to continue the Algoma Branch to a junction with such line, the Governor in Council may, in his discretion, and upon such conditions as he shall determine, postpone the lien and charge thereon created by the said Act, and continued by this Act, so that the claim of the Government shall rank on the said branch next after the mortgage hereinafter mentioned; and in case the Governor in Council should permit the creation of such mortgage for the purpose of continuing the said branch as aforesaid, the

whole branch line so extended shall be charged to the same extent as the present Algoma Branch now is charged, but subject to such mortgage ; and the Governor in Council may, by Order in Council, authorize the Company to exercise, in respect of the said branch, the power of mortgaging the same in manner and form as provided by its charter with respect to mortgaging the main line thereof, to such extent per mile as shall be fixed by such order,—the proceeds of such mortgage to be applied exclusively to the construction of the extension of the said branch to such junction.

Further provision by Order in Council in such case.

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48-49 VIC., CHAP. 58.

An Act to authorize the granting of further subsidies to and making further provision for the construction and efficient operation of the Railways therein described.

[Assented to 20th July, 1885.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Further subsidies.

1. The Governor in Council may grant the further subsidies hereinafter mentioned towards the construction of the railways hereinafter described respectively, that is to say :—

For a line from Inter-colonial Railway to Edmundston in New Brunswick.

1. For a railway from a point on the Intercolonial Railway at Rivière du Loup or Rivière Ouelle, in the Province of Quebec, to Edmundston, in the Province of New Brunswick, a subsidy not exceeding two thousand eight hundred dollars per mile for seventy-five miles, and six thousand dollars per mile for eight miles, nor exceeding in the whole two hundred and fifty-eight thousand dollars; the said subsidy to be in addition to the subsidy authorized to be granted in aid of the construction of the said railway by the Act forty-fifth Victoria, chapter fourteen, and constituting with the subsidy so authorized, a subsidy not exceeding in the whole four hundred and ninety-eight thousand dollars, and to be granted for the said railway upon the terms and conditions specified in the said Act, and payable out of the Consolidated Revenue Fund of Canada; and for the purpose of incorporating the persons undertaking the construction of the said railway and those who shall be associated with them in the undertaking, the Governor may grant to them, under such corporate name as he shall deem expedient, a charter conferring upon them the franchises, privileges and powers requisite for the said purposes, which shall be similar to such of the franchises, privileges and powers granted to railway companies during the present session, as the Governor shall deem most useful or appropriate to the said undertaking; and such charter being published in the *Canada Gazette*, with any Order or Orders in Council relating to it, shall have force and effect as if it were an Act of the Parliament of Canada :

In addition to that under 45 V., c. 14.

Total amount limited.

Company for constructing it may be incorporated by Governor.

2. For a line of railway from the south bank of the St. Lawrence River opposite or near Montreal to the harbors of St. Andrews, St. John and Halifax, *via* Sherbrooke, Moosehead Lake, Mettawamkeag, Harvey, Fredericton and Salisbury, a subsidy not exceeding eighty thousand dollars per annum for twenty years, forming in the whole, together with the subsidy authorized by the Act forty-seventh Victoria, chapter eight, for a line of railway connecting Montreal with the said harbors of St. John and Halifax by the shortest and best practicable route, which the line above described is found to be, a subsidy not exceeding two hundred and fifty thousand dollars per annum, the whole of which shall be paid in aid of the construction of such line of railway for a period of twenty years, or a guarantee of a like sum for a like period as interest on the bonds of the company undertaking the work ; the said subsidy to be so granted upon the terms and conditions of, and payable out of the Consolidated Revenue Fund in the manner specified in the said last mentioned Act in respect of the subsidy thereby authorized in aid of the said line of railway.

For a line connecting Montreal with the harbors of St. Andrews, St. John and Halifax: in addition to that under 47 V., c. 8.

Conditions.

2. And whereas it is essential, in the interest of Canada generally as well as of the Province of Quebec, that free access to the port of Quebec be obtained by the Canadian Pacific Railway, as contemplated by the said last mentioned Act, and such access has not been obtained, and it is necessary to make further provision for the purpose of procuring such access ; therefore—

Access by C. P. R. to Port of Quebec declared essential.

The Governor in Council may grant a further subsidy as an aid towards procuring free access as hereinafter described for the trains and traffic of the Canadian Pacific Railway Company from St. Martin's Junction, near Montreal, or from some other point on their railway to be selected by the said Company, to the harbor of Quebec, in such manner as shall be approved by the Governor in Council, that is to say : an additional subsidy not exceeding three hundred and forty thousand dollars, constituting, together with the subsidy authorized by the said last mentioned Act to aid in procuring the extension of the Canadian Pacific Railway to Quebec, and the subsidy also thereby authorized to aid in constructing a line connecting the Canadian Pacific Railway at the Jacques Cartier Union Junction with the North Shore Railway proper (which subsidies shall be applicable to the said first mentioned purpose) a sum not exceeding in the whole the sum of one million five hundred thousand dollars, payable out of the Consolidated Revenue Fund of Canada.

Further subsidy for securing such access.

In addition to those under 47 V., c. 8. for like purpose.

Total amount limited.

3. If the Canadian Pacific Railway Company fail, within the period of two months from the passing of this Act, to obtain such access to the harbor of Quebec, either by purchasing or obtaining control of the said North Shore Railway, then and thereupon sections four, five and six of the said last

Provision if the C. P. R. Co. do not obtain such access within two months.

Governor in Council may acquire the North Shore Railway, and transfer or lease it to C. P. R. Co.

Amalgamation of C. P. R. and G. T. R., or any of their branches or leased lines, or any pooling of their earnings, to be unlawful and void.

Proviso: as to traffic or running arrangements.

Powers for enabling C. P. R. Co. to carry out sections 4, 5, 6 of 47 V., c. 8.

Application of subsidy for such purpose, &c.

Subsidy, how payable.

Further powers by charter to constructing Co.

mentioned Act shall come into force and be acted upon in accordance with the terms thereof; and if it should be expedient so to do in order to facilitate such access, the Governor in Council may acquire the North Shore Railway, and may apply the said sum of one million five hundred thousand dollars, or any part thereof, in aid of such acquisition,—and upon such acquisition may transfer and convey or lease the said railway to the Canadian Pacific Railway Company, subject to such obligations as the Government shall have assumed in acquiring it; and the Canadian Pacific Railway shall not, nor shall any of its branch lines, nor any line of railway leased by that Company or under its control, be at any time amalgamated with the Grand Trunk Railway or any of its branch lines, or with any branch lines leased by the Grand Trunk Railway Company, or under its control; and any such amalgamation, and any arrangement for making a common fund, or pooling the earnings or receipts of the said two railways, or of their or any of their branch lines, or of any railway lines or parts thereof leased by the said companies or either of them, or under the control of either of them, shall be absolutely void; but this provision shall not extend to traffic or running arrangements made with the assent of the Governor in Council.

4. And in so far as any further authority may be required to enable the Canadian Pacific Railway Company to carry out the provisions of the said fourth, fifth and sixth sections of the said Act, forty-seventh Victoria, chapter eight, as hereby modified, the said Company shall be and is hereby authorized and empowered to do, with the authority of the shareholders thereof, evidenced as provided by its charter, all matters and things that may be necessary or expedient in the carrying out of any arrangement herein contemplated,—including the leasing in perpetuity from any company or party of a second line of railway between Montreal and Quebec, the application of the rental to be agreed upon in the lease thereof to the payment of the interest on the bonds or stock of any company to be formed for constructing such second line, and the use of the subsidy aforesaid, in whole or in part, as a provision for the payment of interest or dividends upon the cost of such construction, or otherwise as may be found expedient in making the financial arrangements for meeting such cost: and the said subsidy shall be payable out of the said Consolidated Revenue Fund in accordance with any such financial arrangement under the approval of the Governor in Council; and such authority for all the said purposes, as may be needed by the company to be incorporated under the Act last above mentioned, may be given to such company by the terms of the charter to be granted to it by the Governor under the said Act.



48-49 VIC., CHAP. 59.

An Act to authorize the granting of the Subsidies therein mentioned, in aid of the construction of certain Railways.

[Assented to 20th July, 1885.]

HER Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

1. The Governor in Council may grant the subsidies hereinafter mentioned to and for the parties, railway companies and railways also hereinafter mentioned, respectively :—

To the Ottawa, Waddington and New York Railway and Bridge Company, for a line of railway from Ottawa to Waddington, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	\$ 166,400
To the New Brunswick and Prince Edward Island Railway Company, for a line of railway from Sackville to the Straits of Northumberland, at or near Cape Tormentine, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	118,400
To the Montreal and Sorel Railway Company, for a line of railway from St. Lambert to Sorel, a subsidy not exceeding \$1,600 per mile, nor exceeding in the whole.....	72,000
To the Brockville, Westport and Sault Ste. Marie Railway Company, for a line of railway from Brockville to Westport, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	128,000
To the Quebec and Lake St. John Railway Company, for a line of railway from its junction on the North Shore Railway to St. Raymond, upon condition of the Company extending their road to a point 50 miles north of St. Raymond, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	96,000
To the Northern and Western Railway Company, for a line of railway from the northern end	

Subsidies to
certain rail-
ways.

of the 40 miles subsidized between Fredericton and the Miramichi River by 47 Victoria, chapter 8, to Boiestown, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole	19,200
To the Montreal and Champlain Junction Railway Company, for a line of railway from Brosseau's to Dundee, a subsidy not exceeding \$500 per mile, nor exceeding in the whole	30,000
To the Thunder Bay Colonization Railway Company, for a line of railway from the Murillo station of the Canadian Pacific Railway to the east end of Whitefish Lake, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	92,000
To the Central Ontario Railway Company, for a line of railway from Coe Hill or Rathburn, to Bancroft, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	64,000
To the Belleville and North Hastings Railway Company, for a line of railway from the Village of Madoc, to the junction with the Central Ontario Railway at Eldorado, a subsidy not exceeding \$1,500 per mile, nor exceeding in the whole.....	10,500
For a line of railway from Long Sault to the foot of Lake Temiscamingue, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	25,600
For a line of railway from a point on the Canada Southern Railway near Comber, to Lake Erie, at or near the Village of Leamington, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	44,800
To the Napanee, Tamworth and Quebec Railway Company, for a line of railway from Tamworth towards Bogart and Bridgewater, 16 miles, in lieu of the subsidy granted by 47 Victoria, chapter 8, a subsidy of.....	70,000
To the Gatineau Railway Company, for a line of railway from Hull station towards Le Desert, a distance of 62 miles, in lieu of the subsidies granted by 46 Victoria, chapter 25, and 47 Victoria, chapter 8, a subsidy of.....	320,000
For a line of railway from the Grand Piles, on the River St. Maurice, to its junction with the Lake St. John Railway, a distance of about 50 miles, in lieu of the subsidy granted by 47 Victoria, chapter 8, for a line of railway from the Grand Piles, on the River St. Maurice to Lake Edward, a subsidy of.....	217,600

To the Canada Atlantic Railway Company, for a line of railway from Valleyfield to a point one and a-half miles west of Johnson's, a subsidy not exceeding \$1,600 per mile, and from one and a-half miles west of Johnson's to Lacolle; also from the present terminus at Ottawa to the Chaudière Falls, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	96,000
For a line of railway from Indiantown <i>via</i> the Miramichi Valley, to its junction with the Northern and Western Railway at or near Boiestown, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	140,800

2. The subsidies hereinbefore mentioned as to be granted to companies named for that purpose, shall be granted to such companies, respectively: the other subsidies shall be granted to such companies as shall be approved by the Governor in Council as having established to his satisfaction their ability to construct and complete the said railways, respectively. All the lines for the construction of which subsidies are granted shall be commenced within two years from the first day of August next, and completed within a reasonable time, not to exceed four years, to be fixed by Order in Council; and shall also be constructed according to descriptions and specifications and upon conditions to be approved by the Governor in Council, on the report of the Minister of Railways and Canals, and specified in an agreement to be made in each case by the Company with the Government, and which the Government is hereby empowered to make; the location, also, of every such line of railway, shall be subject to the approval of the Governor in Council; and all the said subsidies, respectively, shall be payable out of the Consolidated Revenue Fund of Canada, by instalments, on the completion of each section of the railway of not less than ten miles, proportionate to the value of the portion so completed in comparison with that of the whole work undertaken, to be established by the report of the said Minister :

Provided always, that the granting of such subsidies to the companies mentioned, respectively, shall be subject to such conditions for securing such running powers or traffic arrangements and other rights, as will afford all reasonable facilities and equal mileage rates to all railways connecting with those so subsidized, as the Governor in Council may determine.

To whom, for what purposes, and on what conditions, the subsidies may be granted.

How payable.

Proviso : as to running powers.



48-49 VIC. CHAP. 60.

An Act to authorize the grant of certain subsidies in land for the construction of the Railways therein mentioned.

[Assented to 20th July, 1885.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

To the N. W.
Coal and Na-
vigation Co.

1. The Governor in Council may grant to *The North-Western Coal and Navigation Company (Limited)*, Dominion lands to an extent not exceeding three thousand eight hundred acres for each mile of the Company's railway from Medicine Hat to the coal banks on the Belly River, about one hundred and ten miles.

To the Mani-
toba and S.
W. Coloniza-
tion Railway
Co.

2. The Governor in Council may grant to *The Manitoba and South-Western Colonization Railway Company*, Dominion lands to an extent not exceeding six thousand four hundred acres for each mile of the Company's railway, from its commencement at Winnipeg to its terminus at Whitewater Lake, about one hundred and fifty miles.

To the Mani-
toba and N.
W. Railway
Co.

3. The Governor in Council may grant to *The Manitoba and North-Western Railway Company*, Dominion lands to the extent of six thousand four hundred acres for each mile of the Company's railway, for the whole distance from Portage la Prairie to the crossing of the south branch of the River Saskatchewan, twenty miles from Prince Albert, about four hundred and thirty miles.

To the Qu'-
Appelle,
Long Lake
and Saskat-
chewan R. R.
and Steam-
boat Co.

4. The Governor in Council may grant to *The Qu'Appelle Long Lake and Saskatchewan Railroad and Steamboat Company*, Dominion lands to an extent not exceeding six thousand four hundred acres for each mile of the Company's railway, from its commencement near Regina, to the navigable waters of Long Lake.

Grants to be
subject to
conditions to
be fixed by
Order in

5. The said grants, and each of them, may be so made in aid of the construction of the said railways respectively in the proportions and upon the conditions fixed by the Orders in Council made in respect thereof,—each of the said enter-

prises being respectively subject to any modification thereof which may hereafter be made by the Governor in Council; and, except as to such conditions, the said grants shall be free grants, subject only to the payment by the grantees respectively of the cost of survey of the lands and incidental expenses, at the rate of ten cents per acre in cash on the issue of the patents therefor.

Council, and
cost of survey.

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48-49 VIC., CHAP. 73.

An Act to authorize grants of land to members of the Militia Force lately on active service in the North-West.

[Assented to 20th July, 1885.]

Preamble.

WHEREAS it is right to recognize the services of the members of the enrolled militia force actively engaged in suppressing the late half-breed and Indian outbreak in the North-West, by giving to each, in addition to the pay and allowances to which he is entitled under the Militia Act, a grant of land; and it is expedient that the grant should be made in such form as will be conducive to the actual settlement of the public lands of Canada: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Grants of land authorized to members of militia force having served in the N. W. T. in suppressing the outbreak.

1. The Governor General in Council is hereby authorized to grant to each member of the enrolled militia force actively engaged and bearing arms in the suppression of the Indian and half-breed outbreak, and serving west of Port Arthur, since the twenty-fifth day of March now last, including officers, non-commissioned officers and men, a free homestead of two adjoining quarter sections (comprising an area of three hundred and twenty acres in all) of any even numbered section of unoccupied and unclaimed Dominion lands in Manitoba or the North-West Territories open for homestead and pre-emption entry, subject to the condition that the grantee, or his duly constituted substitute, shall have selected and entered the said two quarter sections in the Dominion Land Office for the land district in which they may be situated, on or before the first day of August, eighteen hundred and eighty-six:

Condition for settlement by grantee or his substitute.

Provided, that the said grantee, or his substitute, as the case may be, shall perfect the entry made as aforesaid, by commencing actually to reside upon and cultivate the land within six months from and after the first day of August, eighteen hundred and eighty-six, and shall thereafter continue to reside upon and cultivate the said land for the period and in accordance with the terms and conditions prescribed by the homestead provisions of "*The Dominion Lands Act, 1883*;" Provided also, that no substitute to be selected by a grantee shall be a person who is not eligible

Proviso: as to substitutes.

under the provisions of the said Act to obtain entry for a homestead : And provided further, that in case a substitute be selected by a grantee, as hereinbefore provided, the land shall be entered in the name of the substitute ; and upon compliance with the conditions in that behalf prescribed by the homestead provisions of the said Act, the patent for the two quarter sections shall be issued in the name of the said substitute.

Proviso : as
to issue of
patents.

2. Any person entitled under the foregoing provisions to select and enter, either by himself or by his substitute, three hundred and twenty acres of land as a homestead, in the manner and subject to the terms and condition hereinbefore prescribed, may in lieu thereof, if he so chooses, receive scrip for eighty dollars, which shall be accepted in payment of any Dominion lands open for sale, or in payment of pre-emptions, or of rents of Dominion lands leased for grazing or hay-cutting purposes ; but any person choosing to take scrip, as herein provided, must notify the Minister of the Interior of his choice on or before the first day of August, eighteen hundred and eighty-six.

Scrip may be
granted in-
stead of land.

3. All grants of land or scrip, as the case may be, issued in accordance with the foregoing provisions, shall be made by the Minister of the Interior, upon a warrant in favor of the person entitled thereto issued by the Minister of Militia and Defence, which shall be recorded in the Department of the Interior, under clause twenty-one of "*The Dominion Lands Act*, 1883 ;" and all scrip issued under the second section of this Act shall be subject in all respects to the provisions of the said clause twenty-one, and also of clause twenty-two of the said Act.

Provisions as
to grant of
lands or scrip.

Scrip.

4. The entries to be made and the patents to be issued under this Act shall not be subject to the dues and charges exacted in the case of ordinary homestead entries.

Patents to be
free of charge.



48-49 VIC., CHAP. 76.

An Act to authorize the advance of a certain sum to the Harbor Commissioners of Three Rivers.

[Assented to 20th July, 1885.]

Preamble.

45 V., c. 52.

WHEREAS by section six of the Act of the Parliament of Canada, forty-fifth Victoria, chapter fifty-two, intituled, "*An Act to provide for the improvement and management of the Harbor of Three Rivers*" (hereinafter referred to as "the said Act") the Harbor Commissioners of Three Rivers were authorized to borrow certain sums of money as therein set forth; and whereas, under the said Act the said Corporation have borrowed the sum of sixty-three thousand six hundred dollars, and issued debentures therefor, bearing interest payable half-yearly, at the rate of six per centum per annum; and whereas it is estimated that in order to complete the works in the said harbor now under contract, a further sum of eighteen thousand four hundred dollars will be required: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Loan not exceeding \$82,000 may be raised.

Under provisions of 35 V., c. 6 and 38 V., c. 4.

To form part of Con. Rev. Fund.
Rate of interest limited.

1. To enable the said Harbor Commissioners of Three Rivers to pay off and redeem the said debentures so issued by them, and also to aid them in completing the works now under contract in the said harbor, the Governor in Council may authorize the raising, by way of loan, of such sum or sums of money, not exceeding in the whole the sum of eighty-two thousand dollars, as may be required for the purposes mentioned in the second section hereof; such sum or sums of money to be so raised in accordance with and under the provisions of the Act passed in the thirty-fifth year of Her Majesty's reign, chaptered six, and intituled, "*An Act respecting the Public Debt and the raising of loans authorized by Parliament*," as amended by the Act passed in the thirty-eighth year of Her Majesty's reign, chaptered four, and intituled, "*An Act to amend the Act respecting the Public Debt and the raising of loans authorized by Parliament*," and the sums so raised shall form part of the Consolidated Revenue Fund of Canada: Provided always, that the rate of interest on any loan to be raised by virtue hereof, shall not exceed four per centum per annum.

2. Out of the sum so raised as aforesaid, or out of any other unappropriated moneys forming part of the Consolidated Revenue Fund, such sum of money as may be required to pay off and redeem the debentures of the said Corporation, now issued under the said Act, at a rate not exceeding the par value thereof, and to pay the accrued interest thereon, may be advanced to the said Harbor Commissioners; and the remainder of the said sum of eighty-two thousand dollars may be advanced from time to time to the said Harbor Commissioners to meet payments to be made on account of works now under contract: Provided, that no money shall be so advanced unless with the sanction of the Governor in Council, on the report of the Minister of Public Works.

Advance to
Harbor Com-
missioners.

Remainder to
pay for works
under con-
tract.

Proviso.

3. Upon the payment or advance of any sum under this Act to the said Harbor Commissioners, they shall deposit, as such Commissioners, with the Minister of Finance and Receiver General, their bonds, payable in twenty-five years, to Her Majesty, for the amount so advanced, in such form as the said Minister may approve, and bearing interest at the rate of four per centum per annum, payable half-yearly; such interest to be reckoned from the time of such advance and to be payable by the said Harbor Commissioners out of their income from tolls, rates, dues and other sources of income under the said Act, or any amendment thereof, and to be a first charge thereon, and payable out of the same in preference to all charges whatsoever; and the Commissioners shall also pay to the said Minister of Finance every half year as aforesaid, one-half of one per cent. as a sinking fund towards the redemption of the said debentures.

Bonds for re-
payment of
such ad-
vances.

Form and
conditions of
of bonds.

Sinking fund.

4. Section six of the Act first above cited is hereby repealed, save only as respects the debentures heretofore issued under it; and as regards such debentures the Harbor Commissioners shall forthwith give public notice to the holders thereof, in such manner as shall be approved by the Minister of Finance and Receiver General, that the same will be redeemed on presentation at the office of the said Harbor Commissioners.

Sections 6 of
45 V., c. 52
repealed:
except as to
debentures
issued, which
shall be re-
deemed after
notice.



48-49 VIC., CHAP. 77.

An Act for facilitating navigation of the River St. Lawrence, in and near the Harbor of Quebec.

[Assented to 20th July, 1885.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Sub-section
78 of section
29 of Act of
Province of
Canada, 29
V., c. 57
repealed.

1. Sub-section seventy-eight of the twenty-ninth section of the Act of the Legislature of the late Province of Canada, passed in the twenty-ninth (*year*) of Her Majesty's reign, and intituled, "*An Act to amend and consolidate the provisions contained in the Acts and Ordinances relating to the incorporation of and the supply of water in the City of Quebec*," is hereby repealed with any by-law lawfully made under it; except only as respects any offence against any such by-law, committed before the passing of this Act, or any penalty incurred for such offence :—

Quebec Harbor Commissioners may remove or prevent obstacles to navigation.

And the Quebec Harbor Commissioners, in whom the powers of the late Trinity House of Quebec, for the security and facility of the navigation of the River St. Lawrence, from the Basin of Portneuf downwards, are now vested, may use, or authorize the using by others, under their direction, of such means as they may think proper, for preventing or removing obstructions to the navigation of the said river within the limits of the Harbor of Quebec.

OTTAWA : Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



48-49 VIC., CHAP. 78.

An Act to amend the Acts respecting the appointment of a Harbor Master at the Port of Halifax.

[Assented to 20th July, 1885.]

IN amendment of the Act passed in the thirty-sixth year of Her Majesty's reign, intituled, "*An Act to amend the Act to provide for the appointment of a Harbor Master for the Port of Halifax*," and of the Act thereby amended, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The penalty imposed by any rule or regulation made by the Governor in Council, under the first section of the Act first above mentioned, and incurred by any breach or continuing breach of such rule or regulation, may be recovered by summary proceeding and conviction before the stipendiary magistrate or any justice of the peace having jurisdiction in the harbor of Halifax, or other place where such breach is committed or is continued, under the "*Act respecting the duties of Justices of the Peace, out of Sessions, in relation to Summary Convictions and Orders*," on the information of the harbor master of Halifax or other person; and payment thereof may be enforced in the manner by the said Act provided; and one moiety of such penalty shall belong to the informer (not being the harbor master), and the other moiety to the Crown; but if the harbor master be the informer, the whole shall belong to the Crown.

2. The harbor master of the Port of Halifax may out of the moneys received by him for fees, retain for his own remuneration, one thousand eight hundred dollars, instead of one thousand six hundred, as provided by the Act amended by that cited in the preamble to this Act: but out of the sum so retained he shall defray boat hire and other expenses of his office.



49 VIC., CHAP. 9.

An Act further to amend the Act respecting the Canadian Pacific Railway.

[Assented to 2nd June, 1886.]

Preamble.

Agreement
between the
Government
and the Com-
pany.

WHEREAS an agreement has been entered into between the Government of the Dominion and the Canadian Pacific Railway Company (hereinafter called the Company) subject to the approval of Parliament, providing for the payment and settlement, in the manner described in the said agreement, of the full amount remaining due, with interest, of the loans and advances heretofore authorized to be made to the Company by the Government, amounting in all to the sum of twenty-nine millions eight hundred and eighty thousand nine hundred and twelve dollars, and containing certain stipulations by the Company for authority to deal with their lands and with the branch of their railway known as the Algoma Branch, in manner and form as stated in the said agreement; and it is expedient to approve and ratify the said agreement, and to grant the powers necessary to carry out the same: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Agreement
ratified, and
power given
to carry it
out.

Proviso.

1. The said agreement, a copy of which is appended hereto, is hereby approved and ratified, and the Government and the Company respectively are hereby authorized to perform and carry out the conditions thereof according to their intent and purport: Provided, that the Governor in Council may extend the time for the payment of the first instalment and interest mentioned in the said agreement, to a date not later than the first day of July now next.

On payment
of the
\$29,880,912
company may
be authorized
to issue mort-
gage bonds on
the Algoma
branch.

2. So soon as the payment and settlement of the sum advanced on the said sum of twenty-nine millions eight hundred and eighty thousand nine hundred and twelve dollars, and interest, shall have been effected, as provided by the said agreement, the Company, under the authority of a special general meeting of their shareholders, called for the purpose, may issue mortgage bonds, secured upon the branch of the said railway known as the Algoma Branch, constructed and to be hereafter constructed, completing the connection between the main line of the Canadian Pacific

Railway and the River Ste. Marie,—which issue shall constitute a first mortgage and privilege upon the said branch railway, constructed and to be thereafter constructed, including the rolling stock and plant applicable thereto, and upon the tolls and revenues thereof, after deduction from such tolls and revenues of working expenses, and upon such rolling stock and plant appertaining thereto, as shall be declared and described in any deed of mortgage securing such bonds, which shall be executed by the Company, in conformity with its charter; but the proceeds of such bonds shall be applied exclusively to the cost of completion and equipment of the said Algoma Branch, including the bridge over the said river; and before the issue of such bonds, the Company shall make by-laws, prescribing the mode in which the due and exclusive application of the proceeds of the said bonds to the purposes hereinafter defined shall be secured, and in which, in case of default in the payment of the interest on such bonds or of the capital thereof, the rolling stock and plant, if any, included in such mortgage as appertaining to the said branch, shall be identified, and the tolls and revenues derivable from such branch ascertained and distinguished from the tolls and revenues of the main line, and making such further provisions as may be just and expedient for the protection of the holders of the bonds secured upon the said branch line, without interfering with the rights of the holders of other securities of the Company; and such by-laws shall be submitted for approval to the Governor in Council, and upon such approval, a certified copy thereof shall be deposited in the office of the Secretary of State, and thereafter such by-laws shall continue to be valid and binding upon the Company, and shall not be altered or repealed by the Company so long as the bonds referred to therein remain in force.

Application of proceeds.

Company shall previously pass by-laws respecting such bonds for protection of the holders.

By-laws subject to approval by Governor in Council, and not to be altered while bonds are in force.

3. The mode of securing the said mortgage bonds, and the rights, privileges and remedies applicable thereto and available to the holders thereof, shall be such as are described in sections twenty-eight, thirty-two, thirty-three, thirty-four, thirty-five and thirty-six of the charter of the Company.

Mode of securing bonds to be as provided in the charter of the Company.

4. The Company may also issue mortgage bonds to such amount as they shall deem fit, and as shall be approved by the Governor in Council, not to exceed two dollars per acre, and according to the terms of the said agreement, secured upon the lands of the Company to which they shall then be entitled under the provisions of the construction contract executed on the twenty-first day of October, one thousand eight hundred and eighty; and the provisions of sections thirty, thirty-two, thirty-four, thirty-five and thirty-six of the charter of the Company shall apply to such last-mentioned bonds; but nothing herein contained shall affect or

Company may also issue mortgage bonds secured on land grants.

Conditions
of such issue.

For security
of outstanding
land
grant bonds
beyond the
\$5,000,000 in
hands of the
Government.

impair the security or remedies of the holders of outstanding land grant bonds; and in making such last-mentioned issue of bonds, the Company shall reserve and place in the hands of the trustees of the mortgage securing such bonds, if trustees are created by such mortgage deed, and if not, then in the hands of some person or Company appointed for the purpose by the Governor in Council, an amount of the said bonds equal in value to the land grant bonds then outstanding and unsatisfied above and beyond the sum of five million dollars of such bonds in the hands of the Government, the exchange of which is provided for by the said agreement; and the bonds so reserved shall not be used or disposed of for any other purpose whatsoever, except for providing, by payment or exchange, for the land grant bonds so outstanding and unsatisfied.

Provision for
release of cer-
tain bonds
held by Gov-
ernment
under con-
struction
contract, on
satisfactory
proof that
their reten-
tion is un-
necessary.

5. If after the said Canadian Pacific Railway shall have been constructed and duly placed in operation to its terminus on the seaboard in the Province of British Columbia, it shall be established to the satisfaction of the Governor in Council that the retention of the amount of five million dollars in bonds under the provisions of the construction contract, as security for the operation of the railway, is no longer necessary in the public interest, the Governor in Council may order that the said bonds be released and delivered to the Company.

Company
may acquire
stock in
North Shore
Railway.

6. The Company may take and hold the stock of the North Shore Railway Company as a means of acquiring the railway of the said Company.

* * * * *

Yearly return
of land sales.

8. The Company shall lay before the House of Commons within the first fifteen days of the meeting of Parliament a list of all lands sold by them during the year ending on the first day of October in each year, together with the names of the purchasers.

SCHEDULE.

Agreement referred to in section one of this Act.

THIS AGREEMENT made, subject to the approval of Parliament, between Her Majesty the Queen, acting for the Dominion of Canada, herein represented by the Honorable A. W. McLelan, Minister of Finance, hereinafter called the Government, and the Canadian Pacific Railway Company, herein represented by the chief executive officer thereof, hereinafter called the Company, witnesses,—

1. That inasmuch as the amount actually advanced to the Company by the Government on account of the sum of \$20,000,000, secured by the first mortgage bonds of the Company, to the amount of £4,109,500 sterling, is \$19,150,700, it is agreed that the Company shall repay to the Government with interest at the rate of four per centum per annum, as provided by the Act 48-49 Victoria, chapter 57, the said sum of \$19,150,700,—such payment to be made in two equal instalments, the first of which shall be paid on the first day of May next, and the second thereof on or before the first day of July next, both with interest as aforesaid.

2. That upon full payment of the said two cash instalments and interest as hereinbefore provided, the land grant of the Company shall be reduced by such number of acres as shall be sufficient, computing the value thereof at \$1.50 per acre, to extinguish the balance of the loan of \$29,880,912, mentioned in the Act 48-49 Victoria, chapter 57, that is to say, the sum of \$9,880,912, with interest at the rate aforesaid to the first day of May next; and such reduction shall be effected by the retention by the Government of lands of equal average quality and value, with the lands constituting the portion of the Company's land grant not heretofore disposed of the Company.

3. That upon the settlement of all accounts respecting the said authorized loan of \$29,880,912, and payment and settlement as aforesaid of all sums of money due thereon, all the bonds of the Company secured exclusively upon the land grant of the Company, commonly called land grant bonds, now held by the Government in excess of the sum of \$5,000,000 of such bonds held by the Government under the Construction Contract of the 21st October, 1880, shall be cancelled, and the debenture stock of the Ontario and Quebec Railway Company held by the Government under the Act 47 Victoria, chapter 61, section 1, shall be returned to the Company; and the Government shall authorize the Company, under section 10 of 48-49 Victoria, chapter 57, to mortgage the Algoma Branch to such amount per mile as is authorized by the charter of the Company with respect to the main line.

4. That upon the settlement in manner aforesaid of the indebtedness of the Company to the Government, the Company may issue first mortgage bonds upon the remaining lands granted to them under their said contract, in such manner as is provided by their charter in respect of the issue of land grant bonds, and to such amount per acre as they shall deem fit, not to exceed \$2 per acre, subject to the approval of the Governor in Council—all of the outstanding land grant bonds obtainable being first duly cancelled, and a reserve being made from the new issue to cover such outstanding land grant bonds as cannot be obtained for cancellation. And in the event of the Company making such issue, the Government will accept in exchange for the said

\$5,000,000 of the said land grant bonds, a like amount of the new issue of bonds,—such bonds to be held and dealt with in the same manner as the Government were, by 44 Victoria, chapter 1, intituled, “*An Act respecting the Canadian Pacific Railway*,” authorized to hold and deal with the said \$5,000,000 so exchanged.

5. That all necessary legislation required to carry the provisions hereof into force shall be asked for from Parliament at its present session.

In witness whereof the Minister of Finance has hereto set his hand and seal, and the chief executive officer and the secretary of the Canadian Pacific Railway Company have hereto set their hands and have caused the seal of the Company to be hereto affixed the 30th day of March, in the year of Our Lord one thousand eight hundred and eighty-six.

(Signed,) A. W. McLELAN,



Signed and sealed by the Minister of Finance in the presence of

(Signed,) GEO. W. BURBIDGE.

The Canadian Pacific Railway Company per

(Signed,) GEO. STEPHEN,
President.

(Signed,) C. DRINKWATER,
Secretary.



OTTAWA: Printed by BROWN CHAMBERLIN, Law Printer to the Queen's Most Excellent Majesty.



49 VIC., CHAP. 10.

An Act to authorize the granting of certain subsidies for and in aid of the construction of the lines of railway therein mentioned.

[Assented to 2nd June, 1886.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Governor in Council may grant the subsidies hereinafter mentioned to the railway companies, and towards the construction of the railways also hereinafter mentioned, that is to say:—

For a railway from a point at or near Moncton, to Buctouche, in the Province of New Brunswick, thirty miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole	\$ 96,000
For a railway from Ingersoll <i>via</i> London to Chatham, in the Province of Ontario, eighty miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	256,000
To the Northern and Western Railway Company for ten miles of their railway, intervening between the termini of the portions of their railway for which subsidies are already granted, the one from Fredericton and the other from Indiantown, and an extension of two miles down to deep water at Chatham, in the Province of New Brunswick, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	32,000
To the Caraquet Railway Company, for ten miles of their railway from the end of the present subsidized portion at Lower Caraquet to Shippegan, in the Province of New Brunswick, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	32,000
To the Lake Erie, Essex and Detroit River Railway Company, for thirty-seven miles of their railway, from Windsor to Leamington, in the Province of Ontario, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	118,400

Subsidies
authorized.

To the Thunder Bay Colonization Railway Company, for fifty-six miles of their railway, from the end of the present subsidized section to a point near Crooked Lake, in the Province of Ontario, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole	179,200
To the Parry Sound Colonization Railway Company, for forty miles of their railway, from the Village of Parry Sound to the Village of Sandridge, on the line of the Northern Pacific Junction Railway, in the Province of Ontario, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	128,000
For a railway from a point at or near New Glasgow or St. Lin, to or near to Montcalm, in the Province of Quebec, eighteen miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole	57,600
For a railway from Hereford to the International Railway, in the Township of Eaton, in the Province of Quebec, thirty-four miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole	108,800
For a railway from St. Félix to Lake Maskinongé Parish of St. Gabriel, in the Province of Quebec, ten miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole	32,000
For a railway from Glenannan to Wingham, in the Province of Ontario, five miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	16,000
For a railway from a point at or near the McCann Station on the Intercolonial Railway, to the Joggins, on Cumberland Basin, in the Province of Nova Scotia, twelve miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	38,400
For a railway from L'Assomption to l'Epiphanie, in the Province of Quebec, three miles and a-half, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	11,200
To the Montreal and Western Railway Company, for seventy miles of their railway from St. Jérôme, north-westerly towards Desert, in the Province of Quebec, a subsidy of \$5,161 per mile, in lieu of the subsidies granted by 46 Victoria, chapter 25, and 47 Victoria, chapter 8, not exceeding in the whole.....	361,270
For a railway from St. Andrews to the Canadian Pacific Railway at, or at any point east of the Town of Lachute, in the County of Argenteuil, in the Province of Quebec, seven	

miles, in lieu of the subsidy granted by 47 Victoria, chapter 8, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole	22,400
To the Canada Atlantic Railway Company, for twelve miles of their railway from Clark's Island to Valleyfield and from Lacolle, in the Province of Quebec, to the International Boundary, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	38,400
For a railway from Truro to Newport, in the Province of Nova Scotia, forty-nine miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	156,800
To the Quebec and Lake St. John Railway Company, for ninety-five miles of their railway, from a point fifty miles north of St. Raymond to Lake St. John, in the Province of Quebec, a subsidy not exceeding \$1,961 per mile, nor exceeding in the whole (in addition to the subsidy granted by 45 Victoria, chapter 14, and 46 Victoria, chapter 25, of \$3,200 per mile).....	186,295
To the Cap Rouge and St. Lawrence Railway Company, for twelve miles of their railway from Lorette <i>viâ</i> Cap Rouge to Quebec, in the Province of Quebec, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	38,400
For the construction of wharves and landing stages on the line of the railway from Long Sault to the foot of Lake Temiscamingue, a subsidy of.....	6,000
To the Gananoque, Perth and James' Bay Railway Company, seventeen miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	54,400
For a railway from St. Eustache to St. Placide, County of Two Mountains, eighteen miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	57,600
For a railway from a point on the Intercolonial Railway through the Stewiacke Valley, on a line which will afford facilities of communication with the Iron Mines, Spring Side, Upper Stewiacke, and Musquodoboit settlements, twenty-five miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	80,000
For a railway from Yamaska to the River St. Francis, in the Province of Quebec, ten miles,	

a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	32,000
For a railway from Perth Centre Station on the New Brunswick Railway, to a point near Plaister Rock Island, in the Province of New Brunswick, twenty-eight miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	89,600
For a railway from Fredericton to the Village of Prince William, in the Province of New Brunswick, twenty-two miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	70,400
For a railway from a point on the Intercolonial Railway near Newcastle or <i>via</i> Douglastown, to a point on the River Miramichi, opposite the town of Chatham, in the Province of New Brunswick, six miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	19,200
For a railway from a point on the Canadian Pacific Railway to Eganville, in the Province of Ontario, twenty-two miles, a subsidy not exceeding \$3,200 per mile, nor exceeding in the whole.....	70,400
To the Belleville and North Hastings Railway Company, for seven miles of their railway from the village of Madoc to the junction with the Central Ontario Railway at Eldorado, in the Province of Ontario, a subsidy (in addition to the subsidy of \$1,500 per mile granted by 48-49 Victoria, chapter 59) not exceeding \$1,700 per mile, nor exceeding in the whole.....	11,900
To the Napanee, Tamworth and Quebec Railway Company, for eighteen miles of their railway from Tamworth to Tweed, in lieu of the subsidy granted by 48-49 Victoria, chapter fifty-nine, a subsidy of.....	70,000
To the Albert Railway Company, for their railway from Salisbury to Hopewell, in the Province of New Brunswick, which is a feeder to the Intercolonial Railway, in the form of a loan, repayable at such time and secured in such manner as the Governor in Council determines, a subsidy of.....	15,000

Company
may be incor-
porated by
O.C. for con-
structing
railway from
Long Sault to

2. For the purpose of incorporating the persons undertaking the construction of the railway from Long Sault to the foot of Lake Temiscamingue, and of the wharves and landing stages on the line of the said railway mentioned in the next preceding section, the Governor in Council may

grant to them, under such corporate name as he shall deem expedient, a charter conferring upon them the franchises, privileges and powers requisite for the said purposes, as the Governor in Council shall deem most useful or appropriate to the said undertaking; and such charter being published in the *Canada Gazette*, with any Order or Orders in Council relating to it, shall have force and effect as if it were an Act of the Parliament of Canada.

Lake Temiscamingue; and wharves, &c.

3. The subsidies hereinbefore mentioned as to be granted to companies named for that purpose, shall be granted to such companies respectively; the other subsidies shall be granted to such companies as shall be approved by the Governor in Council as having established to his satisfaction their ability to construct and complete the said railways respectively. All the lines for the construction of which subsidies are granted shall be commenced within two years from the first day of August next and completed within a reasonable time, not to exceed four years, to be fixed by Order in Council, and shall also be constructed according to descriptions and specifications and upon conditions to be approved by the Governor in Council, on the report of the Minister of Railways and Canals, and specified in an agreement to be made in each case by the Company with the Government, and which the Government is hereby empowered to make; the location, also, of every such line of railway shall be subject to the approval of the Governor in Council; and all the said subsidies, respectively, shall be payable out of the Consolidated Revenue Fund of Canada, by instalments on the completion of each section of the railway of not less than ten miles, proportionate to the value of the portion so completed, in comparison with that of the whole work undertaken, to be established by the report of the said Minister: Provided always, that the granting of such subsidies to the companies mentioned, respectively, shall be subject to such conditions for securing such running powers or traffic arrangements and other rights, as will afford all reasonable facilities and equal mileage rates to all railways connecting with those so subsidized, as the Governor in Council may determine.

To whom and for what purposes and on what conditions the said subsidies may be granted.

How payable.

Proviso: as to running powers, &c.



49 VIC., CHAP. 11.

An Act to authorize the grant of certain subsidies in land for the construction of the railways therein mentioned.

[Assented to 2nd June, 1886.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Grant to Manitoba and N. W. Railway Company.

1. The Governor in Council may grant to the Manitoba and North-Western Railway Company, Dominion lands to the extent of six thousand four hundred acres per mile for each mile of the Company's branch railway running from a point on the main line of that railway, at or near Todburn, in a north-westerly direction through the county of Russell to the Assiniboine River, near the town of Shellmouth, about twenty-six miles.

To the N. W. Central Railway Company.

2. The Governor in Council may grant to the North-West Central Railway Company, or to such other company as may undertake the construction of the railway or a railway from a point on the Manitoba and North-Western Railway, *vid* Rapid City, westward, Dominion lands to the extent of six thousand four hundred acres for each mile of the Company's railway, for the whole distance from Brandon Station, on the Canadian Pacific Railway, or from such point on the Manitoba and North-Western Railway as aforesaid, to Battleford, in the Provisional District of Saskatchewan, about four hundred and fifty miles.

To the Wood Mountain and Qu'Appelle Railway Company.

3. The Governor in Council may grant to the Wood Mountain and Qu'Appelle Railway Company, Dominion lands to the extent of six thousand four hundred acres for each mile of the Company's railway for the whole distance commencing at a point in township number four, in range number thirty, west of the second meridian in the Dominion Lands system of survey, passing through the town of Fort Qu'Appelle, to join the Manitoba and North-Western Railway at a point to be fixed for that purpose by the Governor in Council, about two hundred and forty miles.

Grants to be subject to certain conditions.

4. The said grants, and each of them may be so made in aid of the construction of the said railways respectively, in

the proportions and upon the conditions fixed by the Orders in Council made in respect thereof;—each of the said enterprises being respectively subject to any modification thereof which may hereafter be made by the Governor in Council; and, except as to such conditions, the said grants shall be free grants, subject only to the payment by the grantees respectively of the cost of survey of the lands and incidental expenses at the rate of ten cents per acre in cash on the issue of the patents therefor.

Cost of surveys, &c.

5. And whereas it may become necessary for the construction of the railway in respect of which the granting of a subsidy is authorized by the second section of this Act, that a company should be incorporated with the powers requisite for such construction, and for making financial arrangements for the purposes thereof: Therefore, it is hereby further enacted as follows:—

Recital.

For the purpose of incorporating the persons undertaking the construction of the said railway, or a railway from a point on the Manitoba and North-Western Railway, *vid* Rapid City, westward, and for the incorporation of those who shall be associated with them in the undertaking, the Governor in Council may grant to them, under such corporate name as he shall deem expedient, a charter conferring upon them the franchises, privileges and powers requisite for the said purposes, which shall be similar to such of the franchises, privileges and powers granted to railway companies during the present session, as the Governor shall deem most useful or appropriate to the said undertaking; and such charter, being published in the *Canada Gazette*, with any Order or Orders in Council relating to it, shall have force and effect as if it were an Act of the Parliament of Canada: Provided always, that in the event of a company being so incorporated, it shall be provided in the charter that such company shall be subject to all the present legal obligations of the North-West Central Railway Company, in relation to the said railway.

Governor in Council may incorporate a company to construct a certain railway.

Publication and effect of charter.

Proviso: conditions of Charter.



49 VIC., CHAP. 12.

An Act to amend an Act to authorize the granting of subsidies in land to certain railway companies.

[Assented to 2nd June, 1886.]

Preamble.

48-49, V., c. 60. **W**HEREAS it is expedient to make further provision, as hereinafter set forth, respecting the subsidies in land authorized by the Act passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign, chapter sixty, intituled, "*An Act to authorize the grant of certain subsidies in land for the construction of the railways therein mentioned.*" Therefore her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Subsidies in land under the said Act may be granted in townships or fractions thereof; subject to certain conditions as to lands reserved under 46 V., c. 17, for Hudson's Bay Company, or as school lands, for which others shall be substituted.

1. Notwithstanding anything contained in sections eighteen and nineteen of the "*Dominion Lands Act, 1883,*" the Governor in Council is hereby empowered to grant the subsidies in land authorized by the Act cited in the preamble to this Act, wholly or in part, in tracts each comprising a township or a fractional part of a township, as he deems expedient; but no such grant shall be made until an extent of land equivalent to that reserved for the Hudson's Bay Company in the township or fractional part of a township to be so granted, has been set apart for that company out of other ungranted available public lands, and such change has been assented to by the said Hudson's Bay Company; nor shall any such grant be made until a tract or tracts of land equivalent in extent, and as nearly as may be in value, to that set apart as school lands in the township, or fractional part of a township to be so granted, has been set apart as school lands out of other ungranted available public lands; and the substituted lands so set apart shall stand in place of those reserved for the Hudson's Bay Company and set apart as school lands respectively under the said sections eighteen and nineteen of the "*Dominion Lands Act, 1883,*" in the township or fractional part of a township to be so granted.

What the grants under this Act shall include or reserve.

2. The grants of land so made shall include the statutory allowance for roads between sections in the townships and fractional parts of townships so granted, but shall be subject to a reserve of one acre out of every one hundred acres, for

the establishment of trails, with convenient watering places, for the purpose of driving and watering cattle.

3. Such trails shall be for the public benefit, and shall be open to the public for use as common highways, and shall be set off within two years after the passing of this Act, by an officer appointed by the Minister of the Interior for that purpose; and the cost of the survey of such trails shall be borne by the company to which the grant is made.

As to lands reserved for trails.

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49 VIC., CHAP. 13.

An Act respecting the extension of the Intercolonial Railway from a point at or near Stellarton to the Town of Pictou.

[Assented to 2nd June, 1886.]

Preamble.
48-49 V., c.
41.

WHEREAS by the Act of Supply passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign, and chaptered forty-one, the sum of two hundred and fifty thousand dollars was granted to Her Majesty, "to extend the Intercolonial Railway from a point "at or near Stellarton to the Town of Pictou:" Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

Power to
construct or
acquire, &c.,
the said
branch line.

1. It is, and has been, since the passing of the Act cited in the preamble to this Act, lawful for the Minister of Railways and Canals to locate, construct, acquire, equip and work a branch line of railway from a point on the Intercolonial Railway at or near Stellarton, in Nova Scotia, to a point in the town of Pictou in the said Province; and such branch line shall be part of the Intercolonial Railway.

Powers of
Minister under 44 V., c.
25.

2. For the construction and working of and for all purposes relating to the said Branch Railway, the said Minister shall have and exercise and shall be held to have had all the powers and authority vested in him by "*The Government Railways Act, 1881*," all the provisions whereof shall extend and apply to the said Branch Railway, which shall be held to be constructed and worked under the said Act.

Money appropriated to be available until work is completed and paid for.

3. The money appropriated as aforesaid for the said branch line, or any revote thereof, shall be applied to defray the cost of, or occasioned by, its construction and acquisition.

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49 VIC., CHAP. 14.

An Act to authorize the construction of a railway, from the Straits of Canso to Louisburg or Sydney, as a public work.

[Assented to 2nd June, 1886.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Minister of Railways and Canals is hereby authorized to construct a railway from a point on the Straits of Canso to Louisburg or Sydney, as a public work; and "*The Government Railways Act, 1881*," shall apply to such railway, and the location and all other incidents of the work shall be determined by the Governor in Council.

Railway to be made as a public work under 44 V., c. 25.

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49 VIC., CHAP. 15.

An Act respecting the railway from Esquimalt to Nanaimo, in British Columbia.

[Assented to 2nd June, 1886.]

Preamble.
Recital of
case:—
Agreement
under 47 V.,
c. 6, as to
curves on the
railway, and
necessary
departure
therefrom.

WHEREAS by the articles of agreement between certain persons therein named and Her Majesty, therein represented by the Minister of Railways and Canals, and the specification thereunto annexed, which are recited in the Act passed in the forty-seventh year of Her Majesty's reign, and chaptered six, it is provided that the gradients and alignments of the railway from Esquimalt to Nanaimo therein mentioned as to be constructed by the parties of the first part, or a company to be formed by their incorporation, shall be the best that the physical features of the country will admit of without involving unusually or unnecessarily heavy works of construction, with respect to which the Governor in Council shall decide; and whereas the company formed as aforesaid, having carried the works of construction of the said railway far forward towards completion, have represented that in order to avoid such unusually heavy work they have been compelled by the physical features of the country in many places, to adopt sharper curves than those mentioned in the said specification, and have prayed that the same be allowed by Parliament and the said Act amended accordingly; and inasmuch as it appears by the reports of the Engineer of the Department of Railways and Canals, who has inspected the said works, that the gradients of the said railway are as required by the said specification, and the work satisfactorily performed, and that although sharper curves have been introduced than are admissible, under the said specification, the railway is of a more durable and substantial character than if built where flatter curves could have been obtained, and that the allegations of the said company as to the difficulties arising from the physical features of the country appear to be true, it is expedient to grant their prayer: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

With the consent of the
Lt.-Governor

1. The Governor in Council may, with the consent of the Lieutenant Governor of the Province of British Columbia

in Council, accept curves in the said railway not being of less radius than five hundred and seventy-three feet, as satisfying the requirements of the said Act forty-seventh Victoria, chapter six, which shall be construed and have effect as if that radius had been mentioned as the least allowed by paragraph two of the specification A in the schedule to the said Act, instead of a radius of eight hundred feet.

of British
Columbia in
Council the
Governor in
Council may
accept the
existing
curves.

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49 VIC., CHAP. 16.

An Act respecting the Carleton, City of Saint John, Branch Railroad.

[Assented to 2nd June, 1886.]

Preamble.
48-49 V., c.
41.
Schedule B.

Proceedings
under it.

WHEREAS by an Act passed in its now last session the Parliament of Canada appropriated the sum of eighty-five thousand dollars, to purchase the Branch Railroad, harbor frontage, wharf and town lots, and all other property of the Carleton, City of St. John, Branch Railroad Company; and whereas, in pursuance thereof, the outstanding bonds of the said Company, and also four thousand seven hundred shares out of the five thousand shares of its capital stock, have been purchased by the Government of Canada; and it is expedient to declare that the said railroad is a work for the general advantage of Canada, and to make provision for vesting the same with its appurtenances in Her Majesty, for the public uses of the Dominion: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Work declared
to be for
advantage
of Canada.

1. The railroad of the Carleton, City of St. John, Branch Railroad Company, with its harbor frontage, wharves and town lots, and all other property of the said Company, is hereby declared to be a work for the general advantage of Canada.

Purchase of
certain shares
of stock of
company.

2. The Minister of Railways and Canals may purchase from the several holders thereof, the shares in the capital stock of the company now outstanding, paying to each such shareholder a sum not exceeding that paid by him for his stock, without interest thereon.

Railway, &c.,
vested in the
Crown after
such pur-
chase.

3. As soon as the Minister of Railways and Canals has purchased the shares now outstanding of the capital stock of the said Company, the said railroad, with its harbor frontage, wharves and town lots, and all other property of the Company, shall be vested in Her Majesty for the public uses of Canada, free from all claims and incumbrances whatsoever; and the Governor in Council may, by proclamation declare that the same has so become vested in Her Majesty.

Proclamation.

4. If the Minister of Railways and Canals cannot agree with any shareholder in the said Company for the purchase of his shares in its stock, or with the holder of any incumbrance for the discharge thereof, the Governor in Council may, by proclamation, declare that from and after a day to be named in such proclamation, the railroad of the said Company, with its harbor frontage, wharves and town lots, and all other property of the Company, shall be vested in Her Majesty for the public uses of Canada, free from all claims and incumbrances whatsoever, saving the right of any shareholder or incumbrancer whose shares of the stock of the said Company have not been purchased or whose incumbrance has not been discharged as hereinbefore provided, to obtain compensation therefor in the manner by law provided in the case of the expropriation of lands required for public works; and all provisions of law relating to claims arising from such expropriation, shall, as far as applicable apply to the cases mentioned in this section.

Provision if
any such
stock cannot
be purchased.

Saving right
of compensa-
tion.

Certain
enactments
to apply.

5. From and after the date of a proclamation issued under either of the two sections of this Act next preceding, the Minister of Railways and Canals shall, for all purposes relating to the said railroad, have and exercise all the powers and authority vested in him by "*The Government Railways Act, 1881*," all the provisions whereof shall extend and apply to the said railroad; and any other property of the said Company vested in Her Majesty under such proclamation, and not required for railway purposes, shall be subject to the control and management of such Ministers and Departments as the Governor in Council directs.

Railway and
property
vested in the
Crown.

Management
thereof, and
of other
property.

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49 VIC., CHAP. 17.

An Act respecting certain subsidies for a railway from Metapediac on the Intercolonial Railway to Paspediac.

[Assented to 2nd June, 1886.]

Preamble.

Recital.

46 V., c. 25.

47 V., c. 8.

Agreement
between Her
Majesty and
the company.

WHEREAS by the Act forty-sixth Victoria, chapter twenty-five, the Governor in Council was authorized to grant to the Baie des Chaleurs Railway Company, incorporated by Act of the Legislature of the Province of Quebec, a subsidy not exceeding three thousand two hundred dollars per mile, nor exceeding in the whole three hundred and twenty thousand dollars, for one hundred miles of their railway from Metapediac on the Intercolonial Railway to Paspediac in the Province of Quebec, and by the Act forty-seventh Victoria, chapter eight, further authority was given to the Governor in Council to grant a subsidy, not exceeding in the whole three hundred thousand dollars, for a branch of the Intercolonial Railway from Metapediac eastward towards Paspebiac, twenty miles in the Province of Quebec, subject in both cases to certain conditions mentioned in the said Acts respectively; and whereas the said Company, by two separate instruments, designated as articles of agreement, made in duplicate, between Her Majesty Queen Victoria and the Company, both bearing date the seventh day of November, one thousand eight hundred and eighty-five, have undertaken to construct, in the manner and subject to the conditions set forth in the said instruments respectively, as well the said twenty miles as the remaining eighty miles of the railway from Metapediac to Paspebiac, and it was thereby further agreed that the Government should request Parliament, at the present Session, to authorize the arrangement hereinafter mentioned as to the application of the subsidies aforesaid to the several portions of the said one hundred miles of railway: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

How the subsidies heretofore granted shall be applicable.

1. The said subsidy of three hundred thousand dollars shall apply to the first section of twenty miles of the said railway, eastward from Metapediac; the subsidy of three thousand two hundred dollars per mile authorized for the said first section shall, with the three thousand two hundred dollars which alone would have been applicable to the second

section of twenty miles eastward from Metapediac, be also applicable to it, making six thousand four hundred dollars per mile applicable to the said second section ; and to the remaining sixty miles of the said one hundred miles of the railway the subsidy of three thousand two hundred dollars per mile shall apply.

2. The two instruments of agreement mentioned in the preamble to this Act, which were made subject to the approval of Parliament, are hereby approved and confirmed. Agreement confirmed.

3. The Company shall complete the railway hereinbefore mentioned by the first day of December, one thousand eight hundred and eighty-eight, and the provisions of the above cited Acts which are applicable thereto shall, except as hereby modified, continue to apply to the said railway and the said Company. Time for completion of work.

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49 VIC., CHAP. 18.

An Act to amend the Act to provide for the granting of a subsidy to the Chignecto Marine Transport Railway Company (Limited).

[Assented to 2nd June, 1886.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Duration and yearly amount of subsidy to the company, under 45 V., c. 55.

1. The term during which a subsidy may be granted out of the Consolidated Revenue Fund of Canada to the Chignecto Marine Transport Railway Company (Limited), under the provisions of the Act forty-fifth Victoria, chapter fifty-five, shall be twenty years instead of twenty-five years, and the amount of the subsidy that may be so granted shall be one hundred and seventy thousand six hundred and two dollars a year, instead of one hundred and fifty thousand dollars a year.

Company to call for such amount only as may be required to make up its net earnings to 7 per cent. per annum on its capital.

2. The Company shall only call on the Government of Canada for the payment of such sums of the subsidy payable as above mentioned (which shall not in any case exceed the amount then due and payable) as may be required to make up the net earnings of the undertaking to seven per cent. per annum on the authorized share and bond capital of the Company, namely, five millions of dollars.

Repayment of subsidy to Government out of surplus profits.

3. In case the earnings of the undertaking should exceed seven per cent. per annum upon the aforementioned capital, the Company shall pay over to the Government of Canada one-half of the surplus profit beyond the said seven per cent., until the whole of the subsidy which may then have been paid to the Company shall have been repaid to the Government by the Company.

Indenture of agreement of Her Majesty and the company confirmed.

4. The indenture made on the fourth day of March, in the year of our Lord one thousand eight hundred and eighty-six, between the Chignecto Marine Transport Company (Limited) and Her Majesty the Queen, represented therein by the Minister of Railways and Canals of Canada, a copy of which is in the schedule annexed to this Bill, is hereby approved and ratified.

SCHEDULE.

THIS INDENTURE, made this fourth day of March, in the year of our Lord one thousand eight hundred and eighty-six,

BETWEEN "The Chignecto Marine Transport Railway Company (Limited)," hereinafter throughout called the "Company," of the first part; and Her Majesty the Queen Victoria, represented herein by the Minister of Railways and Canals of Canada, hereinafter throughout called the "Minister," of the second part;

WITNESSETH, That in consideration of the money subsidy hereinafter agreed and consented to be paid to the Company, their successors and assigns, by Her Majesty Queen Victoria, Her heirs and successors, in manner hereinafter mentioned, they, the Company, do hereby, for themselves, their successors and assigns, covenant, promise and agree to and with Her Majesty, Her heirs and successors, in manner following, that is to say :—

1. The Company shall and will acquire the right of way from the county council of the county of Cumberland, in the Province of Nova Scotia, or from the owners, occupants and lessees of all lands required for the purposes of said Company, in fee simple or otherwise.

2. The Company will well, truly and faithfully make, build, construct, complete and equip in an efficient, substantial and workmanlike manner, and in accordance with the terms of the proposal made by them to the Government, dated the third day of February, A.D. eighteen hundred and eighty-two (a copy of which proposal for a greater security is attached hereto), a ship railway across the Isthmus of Chignecto, between the Provinces of Nova Scotia and New Brunswick, from Tidnish, on Baie Verte on the Gulf of St. Lawrence, to a point at or near the mouth of La Planche River, in the Bay of Fundy, capable of raising and lowering in its hydraulic lifts and transporting over its line, steamers and other vessels of not less than one thousand tons register each with full cargo, on the line of the route and course shown on the map hereunto annexed, with sufficient and safe docks at each terminus of the railway, capable each of holding securely six steamers or vessels of the tonnage aforesaid (which docks the Company shall enlarge hereafter, when found necessary) and all the bridges, culverts and other works appurtenant thereto, and will perform all the engineering services, whether in the field or in preparing plans or doing other office works, the whole works to be done in a workmanlike and efficient manner.

3. The gradients shall be as nearly level as practicable, and the alignment one straight line, and the road-bed constructed in a workmanlike and efficient manner.

4. The rails shall be of steel weighing not less than 110 pounds to the lineal yard, and shall be connected by steel fish-plates and fastened in the most approved manner.

5. The Company shall construct such and so many suitable sidings, traverses or passing places at such convenient places at the termini of said railway as may be convenient and necessary for the purposes of traffic.

6. The Company shall diligently prosecute the works which have been commenced and shall complete the same in a substantial manner and fully equipped for the services for which it is intended, and to the entire satisfaction of the Minister, on or before the first day of July, A.D. eighteen hundred and eighty-nine.

7. The Company shall, after the completion of the said railway, truly and faithfully keep and maintain the same, and the works and rolling stock, in thorough repair and in good and efficient working and running order, ready and fit, at all times, for the purposes for which they are intended ; and the Company shall and will work the said railway efficiently, charging and receiving such tolls on hulls and cargoes as may be approved of by the Governor in Council.

8. Her Majesty doth hereby for herself, Her heirs and successors, covenant, promise and agree to and with the Company, their successors and assigns, in the manner following, that is to say :—

(1.) Should the said railway and docks, and works appurtenant to the present undertaking, be completed in every respect in accordance with this contract, and should they be accepted as such by the Governor in Council, then, and in such case only and so long during the term of twenty years from the date of said acceptance by the Governor in Council, as the said ship railway is kept in thorough repair and satisfactorily performs the services aforesaid to the satisfaction of the Government, a subsidy at the rate of one hundred and seventy thousand six hundred and two dollars per annum shall be payable to the Company at the end of each half year in instalments of (\$85,301) eighty-five thousand three hundred and one dollars ; it being expressly understood and agreed, however, that such subsidy shall not be payable for any period during the said twenty years during which the conditions above mentioned have not been complied with.

(2.) The Company shall only call upon the Government of Canada for the payment of such portion of the subsidy, payable as aforementioned (which shall not in any case exceed the amount then due or payable) as may be required to make up the net earnings of the undertaking to seven per cent. per annum on the authorized share and bond capital of the Company (\$5,500,000).

(3.) In case the earnings of the undertaking should exceed seven per cent. per annum upon the aforementioned

capital, the Company agrees to pay over to Her Majesty's Government of Canada, one-half of the surplus profit beyond the said seven per cent., until the whole of the subsidy which may then have been paid to the Company shall have been repaid to the Government by the Company.

(4.) Whereas the terms of payment fixed by the Act of the Parliament of Canada, 45th Victoria, chap. 55 (1882), of the subsidy granted to the said Company, are hereby modified to a certain extent, this agreement is made subject to the approval of the said Parliament of Canada at its now next session.

(5.) In case of dispute on any matters relating to this agreement between the parties hereto, the decision thereof is hereby especially given to the Minister of Railways and Canals of Canada, whose determination shall be final and conclusive.

IN WITNESS THEREOF, the managing director of the said Company, appointed by the Act of incorporation of the said Company, and the secretary of the said Company, have hereunto signed their names and attached the seal of the Company, and the Honorable the Minister of Railways and Canals hath hereunto signed his name and caused these presents to be sealed and countersigned by the secretary of the Department of Railways and Canals of Canada.

Signed and delivered by the managing director and by the secretary of the said Company, the common seal of the Company having been first affixed hereto, in the presence of—	[Signed],	H. G. C. KETCHUM,
		<i>Managing Director.</i>
	[Signed],	HENRY KENDRICK,
		<i>Secretary.</i>
		[L.S.]
[Signed],		
HECTOR CAMERON,		
of Toronto, Canada.		

Signed, sealed and delivered by the Minister and Sec- retary of Railways and Canals, in the presence of—	[Signed],	J. H. POPE,
		<i>Minister of Railways and Canals.</i>
	[Signed],	A. P. BRADLEY,
		<i>Secretary.</i>
		[L.S.]
[Signed],		
H. A. FISSIAULT.		



49 VIC., CHAP. 19.

An Act respecting the Improvement of the Harbor of Quebec.

[Assented to 2nd June, 1886.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Further sum
may be raised
for improve-
ment of the
harbor.

1. In addition to the sums authorized by the Acts thirty-sixth Victoria, chapter sixty-two, forty-third Victoria, chapter seventeen, forty-fifth Victoria, chapter forty-seven and forty-seventh, Victoria, chapter nine, to be raised in the manner therein mentioned, for the relief of the Quebec Harbor Commissioners and the improvement of the said harbor, it shall be lawful for the Governor in Council to raise, by the issue of debentures bearing interest, payable half yearly, at a rate not exceeding four per cent. per annum, a further sum of seven hundred and fifty thousand dollars.

Rate of in-
terest limited.

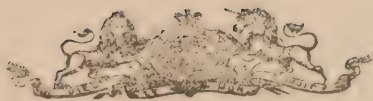
Advance to
commission-
ers.

2. The sum so raised may be advanced, from time to time, to the said Commssioners, to enable them to complete their wet and tidal docks, now in course of construction in the said harbor.

As to repay-
ment by com-
missioners.

3. The repayment by the Commissioners of the sum so advanced shall be provided for in the manner prescribed by the Act first above cited, as amended by the Act forty-sixth Victoria, chapter thirty-nine, for the repayment of the sums advanced to the Commissioners under it, and subject to the provisions of the said Act in that behalf.

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49 VIC., CHAP. 20.

An Act respecting the transfer of the Lighthouse at Cape Race, Newfoundland, and its appurtenances, to the Dominion of Canada.

[Assented to 2nd June, 1886.]

WHEREAS it appears from a despatch from Her Majesty's Secretary of State for the Colonies, bearing date fifth January, one thousand eight hundred and eighty-six, and other public documents laid before Parliament by order of His Excellency the Governor General, during the present Session :

Preamble.
Recital of facts.

That the lighthouse at Cape Race, in the Island of Newfoundland, was erected in the year one thousand eight hundred and fifty-six, on a lot of ground containing about three hundred acres, appropriated therefor by the Government of the said Colony, and that the cost thereof, with its appurtenances, was paid out of the Consolidated Fund of the United Kingdom ;

That in pursuance of an Order of Her Majesty in Council, made under the "*Merchant Shipping Act Amendment Act, 1855*," dues have been levied in respect of the said lighthouse, and applied, under the direction of the Board of Trade, in maintaining it and its appurtenances, and in repaying to the said Consolidated Fund the cost incurred in respect thereof ;

That the whole of the said cost has been so repaid, and that there remains a balance arising from the said dues, which it is estimated will, on the thirtieth day of June, one thousand eight hundred and eighty-six, amount to twenty thousand pounds, or thereabouts :

That in pursuance of an Order of Her Majesty in Council, made under the said recited Act on the twelfth day of December, one thousand eight hundred and eighty-five, the dues leviable in respect of the said lighthouse will, on and after the first day of July, one thousand eight hundred and eighty-six, cease to be levied ;

That the Government of the United Kingdom, on the recommendation of the Board of Trade, is willing that the said lighthouse and its appurtenances be transferred to Canada, on condition that the same be maintained for all time at the expense of the Dominion, without any dues being thereafter charged in respect thereof, and that in consideration thereof, the sum to be certified by the Board of Trade as the net balance aforesaid, of the moneys arising

Consent of
the Imperial
Government.

from such dues before the first day of July, one thousand eight hundred and eighty-six, after the payment of all expenses of maintaining the lighthouse and appurtenances up to the date of the transfer, and of such gratuities to the existing lighthouse and fog-signal staff as the Board of Trade may direct,—if the services of such staff be not required by the Government of Canada after the date of the transfer,—shall be paid to or for the use of the Government of Canada, by Her Majesty's Paymaster General, in such manner as the Board of Trade may direct;

And that a Bill to authorize the transfer and terms aforesaid, and the draft of which accompanies the despatch hereinbefore mentioned, will be laid before the Parliament of the United Kingdom by the Government thereof;

And whereas, inasmuch as the said lighthouse is indispensable to the safety of Canadian vessels and others navigating the North Atlantic to and from Canada, and by the proposed transfer the Dominion will be relieved from the payment of lighthouse dues, amounting yearly to about one thousand two hundred dollars, on vessels trading between Canadian ports and ports in Europe not in the United Kingdom, which the Dominion Government has paid rather than burden the trade by collecting them, it is expedient to authorize the acceptance of the proposed transfer and the conditions aforesaid:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Necessity
of the light-
house.

Government
may accept
the transfer
mentioned;
and light-
house to be
thereafter
maintained
by Canada.

1. The Government of Canada may accept the transfer and terms aforesaid, and from the first day of July, one thousand eight hundred and eighty-six, or so soon thereafter as the transfer shall have been made, and the said lighthouse, with the tract of land attached thereto, and all other land and all rights of water or other rights heretofore used and enjoyed therewith, and all the other appurtenances thereof, for all the estate and interest therein, either of the Board of Trade or of Her Majesty, or of any body corporate, person or persons in trust for Her Majesty or for the Board of Trade or for any public service, shall have been assigned to and vested in Her Majesty for the public service of the Dominion of Canada, the said lighthouse and its appurtenances shall be maintained for all time at the expense of the revenues of the Dominion, without any dues being thereafter charged in respect thereof.

And without
tolls.

Money pay-
able to
Canada to
form part of
Consolidated
Revenue
Fund.

2. The money to be paid by Her Majesty's Paymaster general to and for the use of the Government of Canada, under the conditions of the said transfer, shall form part of the Consolidated Revenue Fund of Canada.



49 VIC., CHAP. 29.

An Act to make further provision respecting grants of land to members of the Militia Force on active service in the North-West.

[Assented to 2nd June, 1886.]

WHEREAS it is expedient to make further provision, as Preamble. hereinafter set forth, respecting the grants of land authorized to members of the Militia Force by the Act passed in the session held in the forty-eighth and forty-ninth years of Her Majesty's reign, and chaptered seventy-three : Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows :—

1. In the Act hereinbefore cited the expression " member of the enrolled militia force actively engaged and bearing arms in the suppression of the Indian and Half-breed outbreak," shall be deemed to include, in addition to the members of the said force mentioned in the said Act :—

(a.) Every officer, non-commissioned officer and man of any irregular force raised by authority and actively engaged and bearing arms in the suppression of the said outbreak, other than as a home guard for the protection of property at or near their place of residence ;

(b.) Every scout actively engaged during the said outbreak whose services have been certified to by competent authority ;

(c.) The master, pilot and every member of the crew of the steamer " Northcote " and every member of the crew of every other boat engaged in action during the said outbreak ;

(d.) Every person regularly appointed to the medical staff, and actively engaged during the said outbreak ;

(e.) Nurses and hospital dressers actively engaged, by authority, during the said outbreak, and reported for special meritorious service by the Major-General commanding ;

(f.) Every officer, non-commissioned officer and man of a corps of the enrolled Militia Force, which corps served in the suppression of the said outbreak west of Port Arthur, who, having started with the corps to which he belonged for service as aforesaid, was incapacitated through accident and ordered to return home or was invalided, not through any

fault of his own, before the corps to which he belonged reached Port Arthur; and if any such officer, non-commissioned officer or man so ordered to return home or invalidated has since died, then his legal representative or representatives.

Privilege granted to members of Militia Force holding certificate of homestead and pre-emption entry.

Proviso.

And to certain members thereof serving under section 21, of Militia Act, 1883, and of schools of military instruction.

Proviso.

2. Every member of the enrolled Militia Force, to whom the Act hereinbefore cited as hereby amended, applies, who, at the time he was called out for active service in suppressing the outbreak in the said Act mentioned, was the holder of a certificate of a homestead and pre-emption entry, under the "*Dominion Lands Act, 1883*," may tender the warrant mentioned in section three of the Act hereinbefore first cited in payment of all moneys due by him in respect of such pre-emption entry, and such warrant shall be received by the proper officer as a payment in cash to an equivalent amount; but no such warrant shall be receivable under the provisions of this section from any substitute of any such member of the enrolled Militia Force, under the said first cited Act.

3. Any member of the several corps, enlisted and serving under the provisions of section twenty-one of "*The Consolidated Militia Act of 1883*," or of the Schools of Military Instruction constituted thereunder, who is entitled to participate in the advantages conferred by the Act hereinbefore first cited, may tender the warrant mentioned in section three of the said first cited Act, in payment *pro tanto* for any land he selects for settlement within six months from the expiry of his term of service under the said section twenty-one: Provided always, that such member shall, on or before the first day of August, one thousand eight hundred and eighty-six, notify the Minister of the Interior whether he will accept a warrant to be applied as in this section before mentioned, or scrip for eighty dollars, as in the said first cited Act provided.

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49 VIC., CHAP. 30.

An Act respecting Tolls over the Dunnville Dam and Bridge connecting works constructed over the Grand River.

[Assented to 2nd June, 1886.]

WHEREAS the work known as the Dunnville Dam and Bridge, erected over the Grand River is a public work of Canada vested in Her Majesty and under the control and management of the Minister of Railways and Canals; and whereas public convenience would be greatly promoted by the abolition of the collection of tolls for the use of the said Dam and Bridge and by allowing free passage over the same: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Notwithstanding anything in the "*Act respecting the Public Works of Canada*," or in any other Act contained, no tolls shall be hereafter levied or collected for passage over the Dam and Bridge mentioned in the preamble to this Act.

No tolls to be levied for passage over the said work.

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49 VIC., CHAP. 31.

An Act respecting the Union Suspension Bridge.

[Assented to 2nd June, 1886.]

Preamble.

WHEREAS the Union Suspension Bridge, erected over the River Ottawa, between the cities of Ottawa and Hull, is a public work of Canada vested in Her Majesty and under the control and management of the Minister of Public Works; and whereas public convenience would be greatly promoted by the abolition of the collection of tolls for the use of the said bridge and by allowing free passage over the same: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

No tolls to be hereafter taken for passing the said bridge.

I. Notwithstanding anything in the "*Act respecting the Public Works of Canada*," or in any other Act contained, no tolls shall be hereafter levied or collected for passage over the bridge mentioned in the preamble to this Act.

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49 VIC., CHAP. 32.

An Act respecting the Burlington Bay Canal.

[Assented to 2nd June, 1886.]

WHEREAS it is expedient in the interests of navigation Preamble.
and for the convenience of the public, that tolls for the
use of the public work hereinafter mentioned should no
longer be collected : Therefore Her Majesty, by and with
the advice and consent of the Senate and House of Commons
of Canada, enacts as follows :—

1. Notwithstanding anything contained in the Act thirty-
first Victoria, chapter twelve, intituled, "*An Act respecting*
the Public Works of Canada," no tolls shall hereafter be pay-
able or collected in respect of the use of the public work
near the city of Hamilton, in the Province of Ontario, com-
monly called the Burlington Bay Canal. Tolls on canal
abolished.

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Excellent Majesty.



49 VIC., CHAP. 33.

An Act for the relief of the Corporation of the Town of Cobourg.

[Assented to 2nd June, 1886.]

Preamble.

Recital of
case of town
of Cobourg.

WHEREAS it appears by the Public Accounts of the Dominion for the financial year ending on the first day of July, one thousand eight hundred and eighty-four, that the corporation of the town of Cobourg was then indebted to the Government of the Dominion in the sum of forty-four thousand seven hundred and ninety-eight dollars and twenty-four cents, such indebtedness arising out of their purchase of the Cobourg harbor and the Port Hope and Rice Lake Road; and whereas the said corporation have represented that they contributed in the financial year one thousand eight hundred and seventy-six and seventy-seven the sum of twenty-five thousand five hundred and seven dollars and forty-nine cents towards defraying the cost of constructing the harbor of refuge at Cobourg, established by the Government, which, though of great advantage to the shipping of the whole Dominion as a large and safe harbor of refuge, is of no special advantage to the town of Cobourg, no revenue being derived therefrom; and the said corporation has prayed for relief to the amount of their said contribution, and it is expedient to grant their prayer on the condition hereinafter mentioned: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Reduction of
debt to Gov-
ernment by
amount of
contribution
for harbor of
refuge.

1. On the payment by the said corporation of the balance of the said sum of forty-four thousand seven hundred and ninety-eight dollars and twenty-four cents, together with the interest due thereon, after deducting therefrom the said sum of twenty-five thousand five hundred and seven dollars and forty-nine cents, the Government may discharge the said corporation from all further indebtedness on account of the said first mentioned sum, or any interest thereon.



49 VIC., CHAP. 38.

An Act respecting the bounty on Pig Iron manufactured in Canada from Canadian ore.

[Assented to 2nd June, 1886.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Governor in Council may, until the thirtieth day of June, one thousand eight hundred and eighty-nine, continue to grant the bounty of one dollar and fifty cents per ton on pig iron manufactured in Canada from Canadian ore, authorized to be granted until the thirtieth day of June, one thousand eight hundred and eighty-six, by the Act forty-sixth Victoria, chapter fourteen. Continuation of bounty authorized for three years.

2. The Governor in Council may, in the manner by the said Act provided, grant a bounty of one dollar per ton on pig iron so manufactured, from the first day of July, one thousand eight hundred and eighty-nine, to the thirtieth day of June, one thousand eight hundred and ninety-two. And of reduced bounty for three further years.

3. The provisions of the Act above cited shall apply to the bounties which the Governor in Council is hereby empowered to grant. 46 V., c. 14, to apply.

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